

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

CLAUDE GENE LEE, SR.,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. 1:06-CV-874-MHT
)	
WESTPOINT HOME, INC.,)	
)	
Defendant.)	

**WESTPOINT’S REPLY TO PLAINTIFF’S RESPONSE IN OPPOSITION TO
WESTPOINT’S MOTION FOR SUMMARY JUDGMENT**

Defendant WestPoint Home, Inc. (“WestPoint”) respectfully submits this reply to Plaintiff’s brief in opposition to WestPoint’s motion for summary judgment.

I. INTRODUCTION

Lee seeks to defeat WestPoint’s motion for summary judgment by (i) submitting his own self-serving affidavit, (ii) claiming, incorrectly, that WestPoint “has submitted absolutely no evidence from the packing department manager who terminated Lee, Mike Alford[;]” and (iii) disagreeing with the criticisms of his performance as a supervisor, which Bob Turner, Frank Major, and Michael Alford all brought to his attention. Lee’s theory is that because the third shift as a whole had relatively high production efficiency, he simply could not have been a poor supervisor.

Lee cannot survive WestPoint’s summary judgment motion on these arguments. WestPoint had a legitimate, nondiscriminatory reason for removing Lee from his supervisory position and for subsequently terminating his employment: his poor performance as a supervisor.

Lee has not shown that this reason is pretextual.¹ Consequently, WestPoint is entitled to summary judgment.

II. DISCUSSION

A. Lee Cannot Create a Genuine Issue of Material Fact With His Affidavit

Before Lee was removed from his supervisory position for poor performance in March, 2006, Lee received four written documents (two personnel notices, a performance review, and a corrective action report) critical of his performance as a supervisor. Lee disagrees with these written criticisms. As discussed in detail below, Lee's disagreement is insufficient to survive summary judgment.

1. Lee's disagreement with the criticisms of his performance cannot establish pretext

a. The December 16, 2005 Personnel Notice²

On or about December 16, 2005, Lee acknowledges receiving a "personnel notice" from Bob Turner. (doc. no. 27, Lee affidavit at ¶¶ 12-13.) In Lee's affidavit he says that the personnel notice gives "vague comments" and criticisms with which he disagrees. (*Id.*) However, in Lee's deposition on July 17, 2007, after WestPoint's motion for summary judgment was filed, Lee denied that the December 2005 personnel notice attached to Brendt Murphy's declaration is the actual, complete December 2005 personnel notice. Instead, Lee, contrary to his affidavit, claimed in his deposition that the personnel notice he received from Bob Turner in December 2005 was **two** pages, not the one page document attached to Murphy's declaration.

¹ Lee's affidavit and brief in opposition to WestPoint's motion for summary judgment mention that in his EEOC charge, Lee alleged that WestPoint discriminated against him on the basis of his race and age. However, Lee did not allege age discrimination in his complaint (*see* Doc. no. 1), and for good reason. Billy Wayne Bedsole, who took Lee's place, is more than two years older than Lee.

² The notice is Tab 1 to this reply brief; *see also* no. 14, Murphy declaration, Ex. 1.

(Deposition of Claude Lee (attached as Tab 6) at 53:12-23.) Lee acknowledged that he signed the personnel notice and that it has no page numbers indicating the existence of a second page; yet, Lee claimed there was a second page which mentioned "something about efficiency and doing 100 percent [production]." (Lee depo. at 54:21-56:16.)

Nevertheless, Lee admitted that the purpose of this personnel notice was to alert him to problems with his performance that required improvement. (Lee depo. at 56:17-58-15; 60:3-13.) The point of Lee's argument is that he disagrees with these criticisms, which mirror those Michael Alford expressed three months later in the corrective action report issued just before Lee was removed from his supervisory position. (*Id.* at 58:16-19; doc. no. 27, Lee aff. at ¶ 12; *see also* Doc. no. 14, Murphy decl. at Ex. 2-3.)

Lee's disagreement with his supervisor's assessment of his work cannot establish that WestPoint's legitimate, nondiscriminatory reason for removing Lee as a supervisor -- poor performance -- is pretextual by claiming he was performing well or disagreeing with his supervisor's criticism of his performance. *See Wilson v. B/E Aero., Inc.*, 376 F.3d 1079, 1088 (11th Cir. 2004) ("If the proffered reason is one that might motivate a reasonable employer, a plaintiff cannot recast the reason but must meet it head on and rebut it. Quarreling with that reason is not sufficient.") (citing *Chapman v. AI Transport*, 229 F.3d 1012, 1030 (11th Cir. 2000) (en banc)). Lee has come forth with no evidence that WestPoint did not truly believe his performance was poor, or that WestPoint intended to discriminate against him because of his race.

b. The January 25, 2006 Performance Review³

A month after Lee received the December personnel notice, he received his annual performance review in January 2006. His supervisor, Major, was critical of Lee's performance as a supervisor. (*see* doc. no. 14, Major decl. ¶ 4, Ex. 1.) In Lee's affidavit, he disagrees with Major's assessment. (doc. no. 27, Lee aff. at ¶ 14.) Again, Lee's disagreement that his performance was poor cannot establish that WestPoint's proffered reason for terminating him is pretextual. *See, e.g., Gaddis v. Russell Corp.*, 242 F. Supp. 2d 1123, 1138 (M.D. Ala. 2003) ("the inquiry into pretext centers upon the employer's beliefs, and not the employee's own perceptions of his performance . . . when the employer produces performance reviews . . . that demonstrate poor performance, an employee's assertions [alone] of his own good performance are insufficient to defeat summary judgment.") (quotation omitted).⁴ In fact, Major's criticisms of Lee's performance were consistent with Alford's who succeeded Major as Lee's supervisor.

Lee's affidavit claims that some of his ratings had "been altered by whitening out previous high marks and instead giving [him] lower marks." (doc. no. 27, Lee aff. at ¶ 16.) In his deposition, Lee admitted that he signed the performance review, but he denied that Major's January 2006 performance review rated him as "fair," and argued instead that on the

³ This performance review is Tab 2 to this reply brief; *see also* doc. no. 14, Major decl. at Ex. 1.

⁴ Lee contends that Major's declaration is somehow contradictory to the January 2006 performance review. Major's declaration states that Lee was rated "fair" on his January 2006 performance review due to "poor performance in supervision/management skills, communication skills and administration areas." (doc. no. 14, Major decl. at ¶ 4.) There is no contradiction. Major's January 2006 performance review of Lee clearly shows the lowest ratings given were in these three categories: "supervision/management skills, communication skills and administration areas." (*Id.* at Exhibit 1.) Moreover, the fact that after the January 2006 performance review, Major continued to observe Lee and found additional inadequacies in his performance (as expressed in his declaration and in the February 2006 personnel notice he gave Lee) does not create a contradiction.

performance review he saw, he had been rated “average” by Major before the review was changed. (Lee depo. at 66:6-68-11.)

This new argument does not show pretext or even a disputed issue of material fact. First, there is no “average” rating possible for the performance review. (*See* doc. no. 14, Major decl. at Ex. 1.) The ratings are: marginal, fair, meets requirements, above requirements, and superior. (*Id.*) Second, Major changed Lee’s performance review after he discussed Lee’s performance with the plant manager, Glen McCants. (*See* attached supplemental declaration of Frank Major at ¶¶ 2-3 (attached as Tab 7); Deposition of Frank Major (attached as Tab 8) at 101:15-103:22.) Major made these changes before Major met with Lee to discuss the review. (*Id.* at ¶ 3; Major depo. at 102:3-22.) Moreover, after talking with the plant manager, Major also made similar changes to the performance reviews he completed for the other shift supervisors, Billy Wayne Bedsole and Mike Etheridge. (Major depo. at 160:3-161:14; Major at ¶ 2-3.)

c. The February 16, 2006 Personnel Notice⁵

Lee’s affidavit acknowledges receiving a personnel notice from Major on February 16, 2006. (*See* doc. no. 27, Lee aff. at ¶¶ 19-20.) In his deposition, Lee acknowledged his signature appears on the bottom of the February 2006 personnel notice. (Lee depo. at 69:18-23.) However, Lee also denied having seen *this* document, and instead, contended that despite the presence of his signature on the personnel notice, the notice he saw in February 2006 said something entirely different when he signed it. (*Id.* at 69:5-74:12.) Again, going back to Lee’s theory that he could not have been underperforming as a supervisor if he was meeting production efficiency quotas (*see* Lee depo. at 166:6-19), Lee contends that the personnel notice he signed

⁵ This notice is Tab 3 to this reply; *see also* doc. no. 14, Major decl. at Ex. 2.

on February 16, 2006 was for the sole purpose of stating that he must reach 100% production efficiency. (Lee depo. at 69:5-72:2.)⁶

Once more, Lee's argument is nothing more than disagreement with Major's criticisms of his performance (doc. no. 27, Lee aff. at ¶ 19; Lee depo. at 72:3-6.) Major had had the opportunity to observe Lee as a supervisor even before Major became Lee's direct supervisor. (Major depo. at 94:23-100:8.) Major unquestionably had problems and concerns with Lee's performance. (doc. no. 14, Major decl.; *see also* Major depo. at 53:8-54:9; 63:15-64:21; 82:2-83:23.) Lee's own opinion that he was performing adequately is insufficient to establish pretext. *See, e.g., Rojas v. Florida*, 285 F.3d 1339, 1342 (11th Cir. 2002) (noting that a court "must be careful not to allow Title VII plaintiffs simply to litigate whether they are, in fact, good employees. The factual issue to be resolved is not the wisdom or accuracy of [the employer's] conclusion that [the plaintiff] was an unsatisfactory employee.").

d. The March 8, 2006 Corrective Action Report⁷

Lee acknowledges receiving a corrective action report from Michael Alford on March 8, 2006 that was critical of his performance. (doc. no. 27, Lee aff. at ¶¶ 23-27.) Lee even *cites to* and *quotes from* the corrective action report. (*Id.* at ¶¶ 23, 27 (quoting doc. no. 14, Murphy decl. at Ex. 2.)) However, in his deposition, Lee contended otherwise. Initially, Lee acknowledged his signature on the March 8, 2006 corrective action report but later he denied that the signature

⁶ Lee's shift production efficiency was unrelated to the written criticisms he received from Turner, Major, and Alford. In any event, "efficiency production" numbers reflect only the time during which *a machine is running*. (Major depo. at 47:10-48:13.) All machines and all associates are expected to run and work, respectively, for the full eight hour shift. (*Id.* at 67:10-68:18; *see also* 47:10-48:13; 50:14-51:11; 52:19-54:9; 65:11-66:11.) There were times when Lee's associates were seen standing around not working and not running the machines; this time is not reflected in the production efficiency reports. (Major depo. at 53:8-54:9; 63:15-64:21; 82:2-83:23.) Moreover, Lee often could not explain to his supervisor why his associates were wasting time and not working. (*Id.*)

⁷ This report is Tab 4 to this reply brief; *see also* Murphy decl. at Ex. 2.

is his. (Lee depo. at 79:10-20; 88:1-89:7.) Even though he clearly acknowledged he received a “new form labeled ‘corrective action report’” (doc. no. 27, Lee aff. at ¶ 23⁸), when deposed, Lee denied altogether ever having received this corrective action report. (Lee depo. at 93:15-96:16.)⁹

Lee cannot defeat WestPoint’s motion for summary judgment with his affidavit and his contention that he performed adequately, when the evidence establishes that three different supervisors had very similar problems and concerns with Lee’s inability to perform as a supervisor. *See, e.g., Grigsby v. Reynolds Metals Co.*, 821 F.2d 590, 597 (11th Cir. 1987) (“conclusory allegations of discrimination, without more, are not sufficient to raise an inference of pretext or intentional discrimination where [defendant] has offered such extensive evidence of legitimate, nondiscriminatory reasons for its actions.”); *see also Tolbert v. Briggs & Stratton Corp.*, No. 05-1149, 2007 U.S. Dist. LEXIS 9342 (M.D. Ala. February 8, 2007) (stating that “[t]here is obviously nothing unlawful, under Title VII, with firing supervisors who fail to improve problematic situations[;]” and holding plaintiff failed to show that the reason for his termination -- poor performance -- was a pretext for termination based on race).

e. The March 11, 2006 Corrective Action Report¹⁰

Later in March 2006, Alford determined that Lee’s performance was not improving appropriately, and that it was necessary to remove Lee from his supervisory position. (*See* doc. no. 14, Murphy decl. at Ex. 3.) In his affidavit, Lee acknowledges receipt of this March 2006

⁸ Lee’s affidavit states: “Although he had only acted as my supervisor for approximately two weeks, he gave me a new form labeled ‘corrective action report.’” (doc. no. 27, Lee aff. at ¶ 23.)

⁹ Lee also claims in his affidavit that the March 8, 2006 corrective action report “g[a]ve [him] two weeks to correct these perceived deficiencies”-- this too is incorrect. (doc. no. 27, Lee aff. at ¶ 28.) The report itself states that he was required to correct the problems *within* two weeks and notes that the “Follow-up conference date [is] 2 weeks or less.” (Murphy decl. at Ex. 2 (emphasis added).)

¹⁰ This report is Tab 5 to this reply brief; *see also* doc. no. 14, Murphy decl. at Ex. 2.

corrective action report removing him from his supervisory position. (doc. no. 27, Lee aff. at ¶¶ 28-29.) However, again, Lee contradicts this acknowledgement in his deposition. Lee admits that his signature is on the March 11, 2006 corrective action report and that he signed the report acknowledging he had seen it. (Lee depo. at 102:12-21.) Yet, in his deposition, Lee denies ever having seen this corrective action report and claims instead that the report he read and signed on that day was different from the document bearing his signature. (Lee depo. at 102:5-109:2.)

Alford clearly set forth in this corrective action report his reasons for removing Lee from a supervisory role: "Claude has failed to aggressively implement changes in production processes, associate training and monitoring and communication. These deficiencies have resulted in poor job performance." (doc. no. 14, Murphy decl. at Exhibit 3.) Lee cannot establish pretext simply by disagreeing with Alford's criticisms, which led to Lee being removed from his supervisory position. *See, e.g., Pennington v. City of Huntsville*, 261 F.3d 1262,1267 (11th Cir. 2001) ("[A] plaintiff employee may not establish that an employer's proffered reason is pretextual merely by questioning the wisdom of the employer's reason as long as 'the reason is one that might motivate a reasonable employer.'"); *see also Bojd v. Golder Assocs.*, No. 06-12209, 2006 U.S. App. LEXIS 31805, at * 5 (11th Cir. Dec. 26, 2006) ("[a] reason is not pretext for discrimination unless it is shown both that the reason was false, and that discrimination was the real reason.") (quotation omitted). Lee acknowledged in his deposition that in 2005 when the new management came in, all employees were under close scrutiny. (Lee depo. at 34:10-13.) Significantly, in the eyes of three different supervisors -- Bob Turner, Frank Major, and Michael Alford -- Lee simply did not meet the required standards.

2. Miscellaneous Claims in Lee's Affidavit Do Not Establish that WestPoint's Legitimate, Nondiscriminatory Reason for Terminating His Employment is a Pretext

Lee's disagreement with the criticisms in the personnel notices and corrective action reports he received is insufficient to defeat WestPoint's motion for summary judgment. Similarly, other contentions in Lee's affidavit provide no support for his contention that WestPoint's legitimate, nondiscriminatory reason for terminating his employment is a pretext.

Lee complains in his affidavit that "other shift supervisors" were given lead personnel, but that he was not given lead personnel between 2000 and 2004 implying that this was somehow an attempt to hinder his performance. (Lee aff. at ¶ 8.) However, in his deposition Lee admits that he did not need a lead person at that time and that subsequently he was in fact provided a lead person.

Q. After the Clemson plant closed, your shift was doing more work?

A. Uh-huh (Positive response.)

Q. And need more employees?

A. Uh-huh. (Positive response.)

Q. Is that yes?

A. That's when the lead person -- they get somebody to help me then. I was by myself from 2001 to 2004. That's when they had something like 35 employees. **I didn't need no help with them.** Like I said, when they closed down Clemson and got more workers, **that's when they give me a lead person to help me.**

(Lee depo. at 47:6-19 (emphasis added).)

Lee claims in his affidavit that "[f]rom the outset, Alford began using profanity towards me and was prone to outbursts." (Lee aff. at ¶ 22.) Lee, however, admits that Alford exhibited a temper towards all employees -- black and white. (Lee depo. 77:2-78:22; 167:12-168:2.)

Lee also claims in his affidavit that an “employee had been recently transferred to [his shift] from the two other shifts run by white supervisors” which he contends “seemed to be more of an effort to hurt my performance.” (Lee aff. at ¶ 25.) Lee contends that this employee had a “sickness” that hindered his ability to perform. (Lee depo. at 99:3-21.) However, Lee admits in his deposition that this employee *requested* a transfer to Lee’s third shift -- no one unilaterally transferred this employee to third shift. (Lee depo. at 96:17-100:23.) In Lee’s deposition, he changed this contention and claimed, instead, that the employee sought transfer off of the third shift and that because the transfer was not effectuated, this “could” have been in an effort to hurt Lee’s performance. (*Id.* at 99:22-100:23.) Lee’s conclusory allegation is insufficient to overcome summary judgment. *See, e.g. Mayfield v. Patterson Pump Co.*, 101 F.3d 1371, 1376 (11th Cir. 1996) (noting that conclusory allegations of discrimination by the plaintiff are not sufficient to raise an inference of pretext). Further, undoubtedly, if Lee had a problem with an associate on his shift, it was his responsibility as the supervisor to handle it. Indeed, Lee’s failure to monitor and discipline his associates was a criticism Bob Turner, Frank Major, and Michael Alford had of Lee’s performance. (*See* doc. no. 14, Murphy decl. exs. 1-3; Major decl., Exs. 1-2.)

As “evidence” that Lee was properly supervising and disciplining his employees, he attaches to his affidavit an October 2005 employee relations report. (*See* doc. no. 27, Lee aff. at ¶ 34.) This report, however, covers a period of time *before* Lee received the first personnel

notice from Bob Turner in 2006, *before* he received the personnel notice from Frank Major, and *before* he received the corrective action reports from Michael Alford. It is wholly irrelevant.¹¹

B. Change in Plant Closing

At the time WestPoint filed its motion for summary judgment, the company had made the decision to close the Abbeville Plant entirely as of August 31, 2007. (doc. no. 14, Murphy decl. at ¶ 15; Major supp. decl. at ¶ 4.) However, since that time, WestPoint has determined that it will leave the distribution operations open and running at Abbeville. (*Id.*; Major depo. at 144:1-15.) This, however, does not change the fact that the department for which Lee worked -- packaging -- has already closed. (*Id.*; Major depo at 144:3-11.) Employees in that department completed their last day of work on August 9, 2007. (*Id.*) Accordingly, even if Lee had not been removed from his supervisory position for poor performance, his job with WestPoint would have ended on August 9, 2007 and WestPoint is entitled to judgment as a matter of law on Lee's claim for damages/reinstatement beyond August 9, 2007.

III. CONCLUSION

Lee cannot establish that WestPoint's legitimate, nondiscriminatory reason for terminating his employment is a pretext for discrimination. Alford's ultimate decision to remove Lee from his supervisory position because of his poor performance,¹² as noted in the March 11, 2006 corrective action report, is consistent with the criticisms both Bob Turner and Frank Major

¹¹ Similarly irrelevant is Lee's contention that two black female employees were demoted around the time that Lee was removed from his supervisory position. Further, Lee's claim is simply inaccurate. For example, Clara Thomas, one of the black females to whom Lee refers, was offered a position as a third shift supervisor, but she declined the job and instead accepted an hourly position in order to remain on the same shift on which she had been working. (Major supp. decl. at ¶ 5.)

¹² WestPoint took efforts to avoid terminating Lee, and it was Lee's decision to decline the set order puller (forklift operator) position, which he was offered and for which he began training. (*See* Major depo. at 131:15-132:23; 162:21-164:10.)

had expressed regarding Lee's performance. That Lee believes he was adequately performing, despite the repeated notices otherwise, does not establish that WestPoint's reason for terminating his employment is a pretext. *See, e.g., Jones v. United Space Alliance, L.L.C.*, No. 05-13001, 2006 U.S. App. LEXIS 2702, at * 13 (11th Cir. Feb. 3, 2006) (noting "an analysis of pretext focuses on the employer's beliefs, 'not the employee's own perceptions of his performance'" and affirming summary judgment in favor of defendant-employer where plaintiff "did not produce any evidence to indicate [employer's] motivation for [plaintiff's] discharge was for any reason other than his poor performance.") (quoting *Holifield v. Reno*, 115 F.3d 1555, 1565 (11th Cir. 1997)). Based on the foregoing, WestPoint's motion for summary judgment is due to be granted.

Respectfully submitted this 12th day of September, 2007.

/s/Kelly F. Pate

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing and/or that a copy of the foregoing has been served upon the following by placing a copy of same in the United States mail, properly addressed and postage prepaid, on this 12th day of September, 2007:

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/s/Kelly F. Pate
Of Counsel

TAB 1

ATT #1

PERSONNEL NOTICE

WESTPOINT STEVENS

INITIATED BY COMPANY ☐ AT REQUEST OF ASSOCIATE

ASSOCIATE		ASSOCIATE NUMBER		TYPE OF NOTICE 1 - ASSOCIATE PROBLEM 2 - ASSOCIATE COMPLAINT 3 - NOTICE OF CHANGE 4 - REQUEST FOR CHANGE 5 - ASSOCIATE REQUEST 6 - COMMENDATION 7 - MISCELLANEOUS NOTICE
CLAUDE LEE				
ACILITY	DEPARTMENT	SHIFT		
044	65	3		
SUPERVISOR		NOTICE DATE		
B. TURNER		12-12-05		
EFFECTIVE DATE OF CHANGE				

SITUATION IN BRIEF

JOB PERFORMANCE

DETAILS

Bob: I talked to Claude about concerns for his ability to properly & efficiently lead and supervise packing on 3rd shift.

"Are you Able?" Claude says he has the ability & is the man to run 3rd shift, exceed standards, & look for improvements & ways to cut cost.

Are you willing to accept responsibility & be held accountable for expectations of 3rd shift as listed above. Yes Sir.

Could you run it without Michael's help - Yes Sir.

If Bob says you are the man for the job, you are not going to let the company down. No Sir.

ACTION TAKEN

Told Claude that his performance & inability to lead his people made him an inefficient supervisor. This area must improve. He is required to enforce incorrect work procedures, discipline situations & communicate with other supervisors of Dept Mgr. to solve all problems. (Attach additional sheets as necessary)

DISTRIBUTION

☐ COST DEPT.

☐ DEPT. FILES

☐ DIVISION HUMAN RESOURCES

☐ OFFICE MANAGER

☐ PAYROLL DEPT.

☐ HUMAN RESOURCES DEPT.

☐ VICE-PRESIDENT

☐ GENERAL MANAGER

☐ MANAGER

☐ ASST. MANAGER

☐ DEPT. MANAGER

☐ PRODUCTION DEPT.

☐ SUPPLY ROOM

RECOMMENDED BY

Claude Lee

12-16-06

DEPARTMENT MANAGER

Bob Turner

12-12-05

ASSOCIATE (if necessary)

OTHER

Lee/WPH-6004

TAB 2

CONFIDENTIAL

WESTPOINT HOME

SALARIED-EXEMPT PERFORMANCE REVIEW

NAME Claude Lee
 DEPARTMENT/POSITION TITLE Wrap and Pack - Supervisor
 FACILITY 044 - Abbeville
 DIVISION and/or BUSINESS UNIT Brd Products / Sheets
 DATE LAST REVIEWED _____
 JSD _____
 RATING PERIOD _____
 PERFORMANCE RATING F
 DATE COMPLETED 1-25-06

GENERAL INSTRUCTIONS

Timing:	A performance review is to be completed for each salaried-exempt associate annually between January 1 and January 31. It is the responsibility of each supervisor to prepare the performance review.
Procedure:	<p>The associate's performance of assigned tasks and accountabilities should be rated with respect to the performance factors below, utilizing the following scale:</p> <p>S - Superior: Consistently and substantially exceeds major job requirements. Accomplishments are extraordinary as demonstrated by job results.</p> <p>AR - Above Requirements: Exceeds most job requirements. Job results are measurably higher than job requirements.</p> <p>MR - Meets Requirements: Meets major job requirements. Performance is fully acceptable as demonstrated by job results.</p> <p>F - Fair: Performance is slightly below what is expected in the position. Performance needs improvement.</p> <p>M - Marginal: Fails to meet most job requirements. Performance requires immediate, substantial and sustained improvement.</p>
Acknowledgement:	This appraisal has been reviewed with the associate. It is understood that the signature does not necessarily indicate agreement with the content of the review.

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I. MANAGEMENT SKILLS EVALUATION

After carefully evaluating individual's work performance in relation to current job requirements, check the appropriate box to indicate the associate's performance. Explanations of terms appear at the bottom of this page. If not applicable, indicate N/A.

Management Skills (Evaluate the first two skills categories only if the associate has supervisory responsibility.)	RATING					Comments or Supportive Details
	SUPERIOR	ABOVE REQUIREMENTS	MEETS REQUIREMENTS	FAIR	MARGINAL	
DEVELOPMENT OF SUBORDINATES Ability to prepare subordinates for current positions, as well as for positions of greater responsibility.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Associates are cross trained on several different jobs.
SUPERVISION/MANAGEMENT SKILLS Ability to direct and control subordinates; ability to motivate and effectively coordinate the efforts of work groups.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Claude has good management skills. Needs to work a little harder motivating associates.
STRATEGIC PLANNING/ORGANIZING Ability to establish courses of action to accomplish specific goals; Allocation of resources, including setting priorities; meeting deadlines; anticipating problems.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Claude does a good job keeping up with priorities.
JOB KNOWLEDGE Technical knowledge and the level of competence required to be successful in the incumbent position.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Has good knowledge of the job and job duties.
QUALITY Conformance to requirements re accuracy, thoroughness, acceptability of work performed.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Quality is good. Needs to pay closer attention to lines.
COMMUNICATION SKILLS Ability to clearly and persuasively express concepts, both orally and in writing; also, ability to listen effectively; grasp ideas and instructions.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does not communicate well with associates.
INTERPERSONAL SKILLS Ability to work cooperatively with subordinates, peers, superiors, and external contacts; ability to influence others without direct authority.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Works well with associates.
ADMINISTRATIVE Ability to satisfy all administrative components of position (i.e. timeliness, completeness, accuracy, documentation).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does not complete paperwork in timely manner.
LEARNING/CAPABILITIES/OTHER RELEVANT SKILLS	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Able to adapt to changes. Has worked many years in Packaging.

PERFORMANCE EVALUATION RATING

Superior Consistently and substantially exceeds major job requirements. Accomplishments are extraordinary as demonstrated by job results.

Above Requirements Exceeds most job requirements. Job results are measurably higher than job requirements.

Meets Requirements Meets major job requirements. Performance is fully acceptable as demonstrated by job results.

Fair Performance is slightly below what is expected in the position. Performance needs improvement.

Marginal Fails to meet most job requirements. Performance requires immediate, substantial and sustained improvement.

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II. ANNUAL ACCOMPLISHMENT SUMMARY DEVELOPMENT REVIEW

(This page to be completed by immediate manager)

A. PERFORMANCE SUMMARY AND TREND (Summarize your view of associate's accomplishments versus goals in the past year and indicate performance.)

Zero lost time accidents
~~Zero~~ 9 recordable cases for department
 Incident rate for department 4.02

B. STRENGTHS/GROWTH (Describe associates strengths and how they changed in the past year.)

Claude's strength is experience in the Packaging department
 and his ability to adapt to changes.

C. DEVELOPMENTAL RECOMMENDATIONS

1. List Developmental Objectives and/or Skills To Improve based on overall performance rating and evaluation of management skills.
2. For any deficiencies noted on Management Skill Evaluation, planned development activity must be detailed here.
3. Developmental Objectives or Skills To Improve should be directly transferred onto next year's Objective Setting page.

Developmental Objectives/Skills To Improve	Planned Developmental Activity
House Keeping	Continue to monitor
Associate Training	Continue to observe associates for areas of improvement

D. FUTURE CAREER DISCUSSION

Discuss associate's career goals and objectives. List any positions in which the associate expresses an interest. Refer to Human Resources Manager if indicated.

Claude loves his job and is willing to take any opportunity for advancement.

E. OVERALL PERFORMANCE RATING

☐ Superior ☐ Above Requirements ☐ Meets Requirements ☒ Fair ☐ Marginal

F. ASSOCIATE'S COMMENTS**G. SIGNATURES**

[Signature]
 Immediate Manager
[Signature]
 Reviewing Manager

Date
 1-25-06
 Date

☐ Check if additional comments attached

C.L.
 Associate's initials
 Indicates that he/she read
 this appraisal and it has been
 discussed with him/her.

Date

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ANNUAL ACCOMPLISHMENT SUMMARY DEVELOPMENT REVIEW

Strictly Private

(This page to be completed by associate)

A. ACCOMPLISHMENT SUMMARY (Summarize your accomplishments versus goals in the past year.)

Brought Percent Ages to 100%. Some work days more than 100%. Employees work together well. work Along with MECHANICS to MAKE SURE MACHINES ARE kept Running.

B. STRENGTHS/GROWTH (Describe your strengths and how they changed in the past year.)

I MAKE SURE each employee is working to their Full Potential. IF I AM Strong At this. MY Employees will be Strong AND Know they must do their Jobs well. I CAN help MY employee to be the best they CAN be.

C. IMPROVEMENT/DEVELOPMENT NEEDS/PLANS (Identify most critical needs and responsive action plans.)

MAKE SURE every Employee Receives the best TRAINING Possible FOR old AND New Jobs

D. JOB/CAREER INTEREST (If interested in a job change, list preference including position title, business unit, location. Specify any geographic limitations, desired timing, etc. Also describe long-term interest.)

I Like being supervisor AND I Love MY Job.

Claude Lee
Associate's Signature

Date

1-25-06

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WESTPOINT HOME

PLANNED PERSONAL OBJECTIVES AND ACCOMPLISHMENTS FOR SALARIED-EXEMPT ASSOCIATES

Lee Claude G.

Associate's Name (last, first, middle initial)

SUPERVISOR

Title

Date

Bed Products Sheets

Division and/or Business Unit

Planned Personal Objective Form 1-6-06 to 12-31-06

1. Efficiency Goal 95% end of 1st Qtr. 100% for 2nd, 3rd, 4th
2. Incident Rate of 2% or less for Dept.
3. Reduce Cost per Doz by 13¢ by the end of 4th Qtr.
Goals: 16¢ end of 1st Qtr, 14¢ end of 2nd, 12¢ end of 3rd, 10¢ end of 4th
4. Zero lost time Accidents in 2006

Claude Lee

Associate's Signature

[Signature]
Supervisor/Manager

Date

1-25-06

Date

1.25.06

(Note: All salaried-exempt associates supervising others must include in their goals their efforts in meeting EEO/AAP expectations.)

Please indicate target date for meeting each goal (1st, 2nd, 3rd and 4th quarter).

*Signatures above indicate agreement on goals and objectives at beginning of evaluation period.

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TAB 3

ATTACH # 2

PERSONNEL NOTICE

WESTPOINT STEVENS

☒ INITIATED BY COMPANY ☐ AT REQUEST OF ASSOCIATE

ASSOCIATE <i>Claude Lee</i>	ASSOCIATE NUMBER	1 - ASSOCIATE PROBLEM 2 - ASSOCIATE COMPLAINT 3 - NOTICE OF CHANGE 4 - REQUEST FOR CHANGE 5 - ASSOCIATE REQUEST 6 - COMMENDATION 7 - MISCELLANEOUS NOTICE
FACILITY 044	DEPARTMENT Packaging	
SUPERVISOR	SHIFT <i>2nd</i>	
NOTICE DATE <i>2.16.06</i>		
EFFECTIVE DATE OF CHANGE ASAP		
SITUATION IN BRIEF Poor Job Performance		

DETAILS

This Personnel Notice is to inform you of the need to increase the monitoring of your associates. There is an excessive waste of time and motion. You associates continue to use improper job methods even after the correct method has been given or even shown to them. There also needs to be an immediate increase in your problem solving of incorrect work flow through out the department. There also needs to be an improvement in the communication with the previous Supervisor for potential problems that may have occurred during the shift or even issues that you find during your walk through, these need to be addressed immediately. You are being issued a Personnel Notice for Poor Job Performance.

ACTION TAKEN

Covered the above with Claude. Asked him if he needed any other guidance or assistance. Failure to meet these goals and guidelines immediately will result in Corrective Action which may include removal from your job.

DISTRIBUTION

☐ COST DEPT.
☐ DEPT. FILES
☐ INDUSTRIAL RELATIONS
☐ OFFICE MANAGER
☐ PAYROLL DEPT.
☐ HUMAN RESOURCES DEPT.

☐ VICE PRESIDENT
☐ GENERAL MANAGER
☐ MANAGER
☐ ASST. MANAGER
☐ DEPT. MANAGER
☐ SUPPLY ROOM

RECOMMENDED BY

DEPARTMENT MANAGER

ASSOCIATE (If necessary)

OTHER

SIGNATURE

DATES

Lee/WPH - 0005

TAB 4

ATT # 3

WESTPOINT HOME

CORRECTIVE-ACTION REPORT - SALARIED (EXEMPT AND NONEXEMPT) PERSONNEL

ASSOCIATE	ASSOCIATE #	JOB TITLE	DATE
Claude Lee		Supervisor	3-8-06
FACILITY	DEPARTMENT	SHIFT	
444	Packaging	3 rd	

Performance/Conduct Description (Fully describe the unacceptable performance/conduct, including details concerning place, date, time, persons involved, outcome and relevant conditions or circumstances.)

Claude is not performing his duties as a supervisor. When working last Thursday (3-2-06) Claude was questioned about an employee not working. He answered he did not know why, and did not question the employee about it. We have discussed this on several occasions and in great detail.

Disciplinary Action Taken (including discharge): Claude is being issued a written corrective action for poor job performance.

Corrective-Action Plan: (Describe any special assistance, in the form of job change, training, counseling, extra supervision or other action required to prevent recurrence. Identify all individuals responsible for implementation and follow-up of action plan.)

Claude must immediately identify, address, correct and follow up on all issues relating to his responsibility as a supervisor within the packaging dept. If not fully in control of his position as a supervisor in the packaging department within 2 weeks including proper communications of progress with management Claude could be immediately removed from his current position as supervisor.

Comments: (Describe associate's attitude and/or reactions and any special circumstances or consideration concerning the unsatisfactory performance.)

Follow-up conference date: Quick or less Comments (Describe status of action plan):

Claude Lee ASSOCIATE'S SIGNATURE [Signature] HUMAN RESOURCES MANAGER WITNESS	DATE 3-8-06 DATE DATE	Michael W. [Signature] IMMEDIATE SUPERVISOR FACILITY MANAGER/CORPORATE OR DIVISION DEPARTMENT MANAGER	DATE 3-8-06 DATE
--	--------------------------------	--	------------------------

CC-002503-CAR

Lee/WPH - 000

TAB 5

ATT 4**WESTPOINT HOME****CORRECTIVE-ACTION REPORT - SALARIED (EXEMPT AND NONEXEMPT) PERSONNEL**

ASSOCIATE	Claude Lee	ASSOCIATE #		JOB TITLE	Supervisor	DATE	3-11-06
FACILITY	44	DEPARTMENT	Packing	SHIFT	3rd		

Performance/Conduct Description (Fully describe the unacceptable performance/conduct, including details concerning place, date, time, persons involved, outcome and relevant conditions or circumstances.)

Claude has failed to aggressively implement changes in production processes, associate training and monitoring, and communication. These deficiencies have resulted in poor job performance.

Disciplinary Action Taken (including discharge): Claude is immediately removed from his current position as a supervisor in the packaging dept.

Corrective-Action Plan: (Describe any special assistance, in the form of job change, training, counseling, extra supervision or other action required to prevent recurrence. Identify all individuals responsible for implementation and follow-up of action plan.)

N/A

Comments: (Describe associate's attitude and/or reactions and any special circumstances or consideration concerning the unsatisfactory performance.)

Follow-up conference date: N/A Comments (Describe status of action plan):

Claude Lee
ASSOCIATE'S SIGNATURE
HUMAN RESOURCES MANAGER

DATE
3-11-06
DATE

WITNESS

Michael W. Axford
IMMEDIATE SUPERVISOR
FACILITY MANAGER/CORPORATE OR
DIVISION DEPARTMENT MANAGER

3-11-06
DATE
DATE

CC-062503-CAR

TAB 6

DEPOSITION OF CLAUDE GENE LEE, SR.

July 17, 2007

Pages 1 through 203

PREPARED BY:

Haislip, Ragan, Green, Starkie & Watson, P.C.

566 South Perry Street

Post Office Box 62

Montgomery, AL 36104

Phone: (334) 263-4455

Fax: (334) 263-9167

E-mail: haislipragan@charter.net

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 SOUTHERN DIVISION
4
5 CLAUDE GENE LEE, SR.,
6 Plaintiff,
7 Vs. CASE NO. 1:06-CV-874-MHT
8 WESTPOINT HOME, INC.,
9 Defendant.
10
11 *****
12
13
14 DEPOSITION OF CLAUDE GENE LEE, SR., taken
15 pursuant to stipulation and agreement before Lisa
16 J. Nix, Registered Professional Reporter and
17 Commissioner for the State of Alabama at Large, in
18 the Law Offices of Jay E. Tidwell, Tidwell Law
19 Group, Suite 217, 2112 11th Avenue South,
20 Birmingham, Alabama, on Tuesday, July 17, 2007,
21 commencing at approximately 12:15 p.m.
22
23 *****

Page 2

1 APPEARANCES
2
3 FOR THE PLAINTIFF:
4 Mr. Jay E. Tidwell
5 Tidwell Law Group LLC
6 Suite 217
7 2112 11th Avenue South
8 Birmingham, AL 35205
9
10 FOR THE DEFENDANT:
11 Ms. Kelly F. Pate
12 BALCH & BINGHAM
13 Attorneys at Law
14 Suite 200
15 105 Tallapoosa Street
16 Montgomery, Alabama 36104
17
18
19
20
21
22
23 ALSO PRESENT:
Mr. Lawrence Williams

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<p>1 STIPULATION</p> <p>2 It is hereby stipulated and agreed by and</p> <p>3 between counsel representing the parties that the</p> <p>4 deposition of CLAUDE GENE LEE, SR. is taken</p> <p>5 pursuant to the Federal Rules of Civil Procedure</p> <p>6 and that said deposition may be taken before Lisa</p> <p>7 J. Nix, Registered Professional Reporter and</p> <p>8 Commissioner for the State of Alabama at Large,</p> <p>9 without the formality of a commission, that</p> <p>10 objections to questions other than objections as to</p> <p>11 the form of the question need not be made at this</p> <p>12 time but may be reserved for a ruling at such time</p> <p>13 as the said deposition may be offered in evidence</p> <p>14 or used for any other purpose by either party</p> <p>15 provided for by the Statute.</p> <p>16 It is further stipulated and agreed by and</p> <p>17 between counsel representing the parties in this</p> <p>18 case that the filing of said deposition is hereby</p> <p>19 waived and may be introduced at the trial of this</p> <p>20 case or used in any other manner by either party</p> <p>21 hereto provided for by the Statute regardless of</p> <p>22 the waiving of the filing of the same.</p> <p>23 It is further stipulated and agreed by and</p>	<p>1 Q. If you answer my question, I'll assume that</p> <p>2 you understood it. Is that fair?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And if you would, please try to</p> <p>5 answer out verbally instead of nodding your</p> <p>6 head. That way the court reporter can take</p> <p>7 everything down for us.</p> <p>8 A. Okay.</p> <p>9 Q. Like Jay said, if at any time you need a</p> <p>10 break, just let me know and we can do that.</p> <p>11 A. Okay.</p> <p>12 Q. Are you currently taking any medication?</p> <p>13 A. Yes.</p> <p>14 Q. What are you taking?</p> <p>15 A. High blood pressure medicine.</p> <p>16 Q. A blood pressure medicine?</p> <p>17 A. Uh-huh. (Positive response.)</p> <p>18 Q. And is that it?</p> <p>19 A. Yes.</p> <p>20 Q. And that medication wouldn't affect your</p> <p>21 ability to testify truthfully to the</p> <p>22 fullest extent of your knowledge today,</p> <p>23 would it?</p>
Page 6	Page 8
<p>1 between the parties hereto and the witness that the</p> <p>2 signature of the witness to this deposition is</p> <p>3 hereby waived.</p> <p>4</p> <p>5 *****</p> <p>6</p> <p>7 CLAUDE GENE LEE, SR.</p> <p>8 The witness, after having first been duly</p> <p>9 sworn to speak the truth, the whole truth and</p> <p>10 nothing but the truth testified as follows:</p> <p>11 EXAMINATION</p> <p>12 BY MS. PATE:</p> <p>13 Q. Mr. Lee, I'm Kelly Pate. We met earlier.</p> <p>14 I'm here today representing WestPoint.</p> <p>15 With me is Mr. Lawrence Williams.</p> <p>16 Do you understand today that you'll be</p> <p>17 answering questions under oath?</p> <p>18 A. Yes.</p> <p>19 Q. And if you don't understand a question that</p> <p>20 I ask, if you'll just let me know, I'll do</p> <p>21 my very best to rephrase it so that we</p> <p>22 understand each other.</p> <p>23 A. Okay.</p>	<p>1 A. No.</p> <p>2 Q. Wouldn't affect your memory in any way?</p> <p>3 A. No.</p> <p>4 Q. Do you have any sort of physical problems</p> <p>5 that would prevent you from testifying</p> <p>6 today to the fullest extent of your</p> <p>7 knowledge?</p> <p>8 A. No.</p> <p>9 Q. Mr. Lee, when I refer to WestPoint today,</p> <p>10 I'm referring to the company for whom you</p> <p>11 worked, even though we understand that the</p> <p>12 name changed a couple of times while you</p> <p>13 were there and most recently with an asset</p> <p>14 sale in 2005. Is that okay with you?</p> <p>15 A. Yes.</p> <p>16 Q. Have you ever been deposed before?</p> <p>17 A. Say what, now?</p> <p>18 Q. Have you ever been deposed before in a</p> <p>19 deposition like this?</p> <p>20 A. No.</p> <p>21 Q. Have you ever testified in court?</p> <p>22 A. No.</p> <p>23 Q. Have you ever been arrested or charged with</p>

Page 9

1 any sort of crime?
2 A. No.
3 Q. Tell me for the record what your full legal
4 name is.
5 A. Claude Gene Lee, Sr.
6 Q. And have you ever gone by any other name?
7 A. No.
8 Q. How old are you, Mr. Lee?
9 A. 51.
10 Q. What's your date of birth?
11 A. December the 15th, 1955.
12 Q. What's your current address?
13 A. 100 Murry Street, Abbeville, Alabama 36310.
14 Q. How long have you been at that address?
15 A. 25 years.
16 Q. Is that a house?
17 A. Right. House.
18 Q. You own it or rent it?
19 A. Own it.
20 Q. Does anybody live with you?
21 A. My wife and son.
22 Q. And what are their names?
23 A. My wife is named Joanne Lee.

Page 10

1 Q. What's your son's name?
2 A. Claude Gene Lee, Jr.
3 Q. How old is he?
4 A. 22.
5 Q. Is he in school down there in Abbeville?
6 A. No. He's working.
7 Q. Where is he working?
8 A. U.S. Postal Service.
9 Q. What about your wife? Does she work?
10 A. Yes.
11 Q. Where does she work?
12 A. U.S. Postal Service.
13 Q. And what's her position?
14 A. Postal clerk.
15 Q. And does your son do the same thing?
16 A. No, he's a mail carrier.
17 Q. Where did your wife work before the post
18 office?
19 A. WestPoint Stevens -- Homes.
20 Q. What was her position there?
21 A. She was a flat sheet hemmer. Flat sheet,
22 sewing machine.
23 Q. How long was she with WestPoint?

Page 11

1 A. About 13 years.
2 Q. Why did she leave WestPoint?
3 A. She went to the post office after she --
4 when she left.
5 Q. Was it a better job?
6 A. Better job.
7 Q. More pay?
8 A. Uh-huh. (Positive response.)
9 Q. Where did you live before Murry Street?
10 A. I stayed at 206 Pine Street.
11 Q. And how long were you at that address?
12 A. I think from '75 to '82. '82, I think.
13 From '75 to '82.
14 Q. Did you own or rent that home?
15 A. Rent.
16 Q. How long have you been married?
17 A. 30 years.
18 Q. So your wife was living with you at that
19 address?
20 A. Yes.
21 Q. Anybody else other than your son living
22 with you then?
23 A. We had three kids.

Page 12

1 Q. And what are their names?
2 A. Claude Lee, Jr., Katrina Lee, and Tamela
3 Lee.
4 Q. And what are their ages?
5 A. Tamela is 31, and Katrina is 25, and
6 Claude, Junior is 22.
7 Q. Where do Katrina and Tamela live?
8 A. Tamela is staying at Headland, Alabama.
9 Katrina stay in Atlanta, Georgia.
10 Q. Mr. Lee, where did you go to high school?
11 A. Abbeville High School.
12 Q. And did you graduate?
13 A. Yes.
14 Q. What year did you graduate?
15 A. 1974.
16 Q. Did you do any other education after high
17 school?
18 A. No.
19 Q. Other than the job that we're here to talk
20 about today, have you ever been laid off or
21 terminated, fired from a job?
22 A. No.
23 Q. Tell me all of the positions you held while

Page 13

1 you were with WestPoint.
 2 A. WestPoint, they had -- when I first
 3 started, they had something like almost 25
 4 different kind of jobs. Mostly I done
 5 probably 20 different jobs. Probably
 6 five -- five jobs I probably didn't never
 7 do, but I done about 20 of them.
 8 Q. You think you did about 20 different jobs?
 9 A. Uh-huh. (Positive response.)
 10 Q. Do you remember the names of those
 11 positions?
 12 A. You had -- well, you had machine operator.
 13 You had automatic machine operator. You
 14 had a pillow case machine operator. You
 15 had a half a dozen packer. You had a
 16 strapper, a running strapper.
 17 Q. What's a strapper?
 18 A. That's when you -- like boxes, you put the
 19 straps around it to hold it down.
 20 You had palletizer.
 21 Q. And these were all jobs that you held?
 22 A. Uh-huh. (Positive response.) I learned to
 23 do, you know.

Page 14

1 Q. Do you remember about how long you did each
 2 of those jobs?
 3 A. Some of the jobs, you know, where people
 4 stay out -- they ask you to do them when
 5 they stay out. That's when you learn how
 6 to do them.
 7 Q. You're talking about if somebody is out
 8 sick, you would fill in for different
 9 positions?
 10 A. Uh-huh. (Positive response.)
 11 Q. What department did you work in during the
 12 course of the time you were there?
 13 A. The same. I was in the same department all
 14 29 years, one department.
 15 Q. And what department was that?
 16 A. Wrapping, packing department.
 17 Q. So all of these jobs that you just
 18 mentioned -- the machine operator and
 19 strapper -- those were all in the packaging
 20 department?
 21 A. Uh-huh. (Positive response.) Packaging
 22 department.
 23 Q. Mr. Lee, have you ever filed a lawsuit

Page 15

1 against anyone?
 2 A. No.
 3 Q. Have you ever been involved in other
 4 litigation, not necessarily as a party, but
 5 involved maybe as a witness in any way?
 6 A. No.
 7 Q. Have you ever had to declare bankruptcy?
 8 A. Yes.
 9 Q. When did you declare bankruptcy?
 10 A. Last month.
 11 Q. Tell me about those circumstances.
 12 A. I don't understand what you're talking
 13 about, tell you.
 14 Q. Okay. Let me just back up and try to take
 15 it a step at a time. Have you filed in
 16 court for bankruptcy?
 17 A. No, I went to a lawyer.
 18 Q. What's the lawyer that you saw, what's his
 19 name?
 20 A. Michael -- let's see. I have it right
 21 here. Michael Brock, B-R-O-C-K.
 22 Q. Is he in Abbeville?
 23 A. Dothan.

Page 16

1 Q. Dothan?
 2 A. Uh-huh. (Positive response.)
 3 Q. Did you fill out paperwork when you went to
 4 see Mr. Brock?
 5 A. Yes.
 6 Q. And did you fill out bankruptcy papers?
 7 A. Yes.
 8 Q. Do you think those have been filed with the
 9 court yet?
 10 A. We're supposed to go to court the 21st of
 11 August.
 12 Q. And do you know what court --
 13 A. They give us the case number already.
 14 Q. Do you know the case number?
 15 A. 07-10874.
 16 Q. And what court is that?
 17 A. Federal court in Dothan.
 18 Q. You and your wife filed jointly?
 19 A. Yeah, jointly.
 20 Q. Is your wife still employed at the post
 21 office?
 22 A. Yes.
 23 Q. Do you remember while you were at WestPoint

Page 17

1 receiving any training on harassment or
2 discrimination?
3 A. Yes.
4 Q. When do you remember receiving training?
5 A. A man come out -- I think, come out of
6 WestPoint, Georgia about every year and go
7 over about the same thing: Race, sex
8 discrimination, all that.
9 Q. Do you remember any details of what was
10 said?
11 A. He always say, you know -- he talk about,
12 you know -- all the supervisors had to go
13 in out there. And he always said -- he
14 asked everybody the question, do you think
15 the supervisor is equal, white and black,
16 and everybody said yes, you know, it was
17 pretty equal.
18 Q. Do you remember receiving any company
19 policies on harassment and discrimination?
20 A. He had paperwork, you know, that we can
21 take with us.
22 (Defendant's Exhibit 1 was marked
23 for identification.)

Page 18

1 Q. Let me show you what I've marked as
2 Defendant's Exhibit 1. Have you ever seen
3 this policy before?
4 A. Yes.
5 Q. Did you receive a copy of it?
6 A. Yes.
7 Q. Did you read this policy?
8 A. Yes.
9 Q. Do you remember seeing this policy posted
10 at WestPoint?
11 A. Yes.
12 Q. And this policy is titled what to do if you
13 have a complaint or problem, right?
14 A. Yes.
15 Q. And it gives you six steps to follow if you
16 have a problem?
17 A. Yes.
18 Q. Did you understand those six steps?
19 A. Yes.
20 (Defendant's Exhibit 2 was marked
21 for identification.)
22 Q. Let me show you what I marked as
23 Defendant's Exhibit 2, and it's Bates

Page 19

1 stamped Lee/WPH 0246 through 0248, A
2 Guidebook for Salaried Associates. Have
3 you seen this policy before?
4 A. No, not really.
5 Q. You don't remember receiving a copy of this
6 policy?
7 A. No, ma'am.
8 Q. You don't remember ever reading this
9 policy?
10 A. No.
11 Q. Do you remember seeing this policy posted
12 up at WestPoint?
13 A. No.
14 (Defendant's Exhibit 3 was marked
15 for identification.)
16 Q. Let me show you what I've marked as
17 Defendant's Exhibit 3, and it's Bates
18 stamped Lee/WPH 0011. Is that your
19 signature at the bottom of the page?
20 A. Yes.
21 Q. And it's dated August 3rd of 2005?
22 A. Yes.
23 Q. Read out loud the paragraph above your

Page 20

1 signature line.
2 A. I have read the disclaimer written above,
3 and I understand it. I acknowledge that
4 the guidebook is not an employee contract.
5 Q. That's fine. Do you agree with me that you
6 signed, acknowledging that you had read the
7 Guidebook for Salaried Associates?
8 MR. TIDWELL: Object to the form.
9 A. When they got this right here, they didn't
10 have all the information. They said they
11 were going to get it to us later, but we
12 never received any stuff like this right
13 here.
14 Q. Tell me what you mean.
15 A. They didn't have all the guidebooks ready
16 when we signed this right here.
17 Q. Do you remember receiving a guidebook every
18 year or so?
19 A. Yeah, we received one every year.
20 Q. So at some point during your career, you
21 saw the guidebook more than once?
22 A. Uh-huh. (Positive response.)
23 Q. And you read the guidebook?

Page 21	Page 23
<p>1 MR. TIDWELL: Object to the form.</p> <p>2 Q. Was that a yes?</p> <p>3 A. Yes.</p> <p>4 MR. TIDWELL: She's talking about</p> <p>5 this guidebook that you've</p> <p>6 seen and read.</p> <p>7 A. It's a little different, I reckon,</p> <p>8 but ... but they have give us some</p> <p>9 guidebooks.</p> <p>10 Q. Have you seen a Guidebook for Salaried</p> <p>11 Associates that's like the one that's</p> <p>12 marked Defendant's Exhibit 2, seen one like</p> <p>13 that?</p> <p>14 MR. TIDWELL: Like this one.</p> <p>15 A. I haven't seen one like that.</p> <p>16 Q. Look with me on Defendant's Exhibit 3. The</p> <p>17 title at the top is Guidebook for Salaried</p> <p>18 Associates Booklet.</p> <p>19 The first paragraph -- make sure I read</p> <p>20 this right. It says: On or after July 1,</p> <p>21 2004, you received a copy of the WestPoint</p> <p>22 Stevens booklet entitled Guidebook for</p> <p>23 Salaried Associates, revised 07-01-04.</p>	<p>1 in the front door.</p> <p>2 Q. Tell me what you remember about that.</p> <p>3 A. It just say, you know, like WestPoint don't</p> <p>4 discriminate. That's the only thing I can</p> <p>5 tell you.</p> <p>6 Q. Did it tell you what to do if you had a</p> <p>7 complaint or a problem?</p> <p>8 A. I really don't know.</p> <p>9 Q. So you don't remember ever reading this</p> <p>10 policy that's marked as Defendant's Exhibit</p> <p>11 4?</p> <p>12 A. No, but I know they had something about</p> <p>13 discrimination on the front -- when you</p> <p>14 walk in the front door.</p> <p>15 Q. Do you ever remember receiving a policy</p> <p>16 like this one in Defendant's Exhibit 4?</p> <p>17 A. No.</p> <p>18 Q. Do you not remember ever receiving one or</p> <p>19 you don't think you ever did receive one?</p> <p>20 A. I don't think --</p> <p>21 Q. There's a difference.</p> <p>22 A. Never seen -- don't remember a</p> <p>23 discrimination policy.</p>
Page 22	Page 24
<p>1 Look at Defendant's Exhibit 2 and tell</p> <p>2 me, is that the guidebook that's marked as</p> <p>3 revised 07-01-04?</p> <p>4 A. I don't know.</p> <p>5 (Defendant's Exhibit 4 was marked</p> <p>6 for identification.)</p> <p>7 Q. Let me show you what's marked as</p> <p>8 Defendant's Exhibit 4. And this is a part</p> <p>9 of the WestPoint Home human resources</p> <p>10 policy manual. Have you ever seen a copy</p> <p>11 of this?</p> <p>12 A. No.</p> <p>13 Q. Never seen this policy on equal employment</p> <p>14 opportunity, anti-harassment or</p> <p>15 retaliation?</p> <p>16 A. No.</p> <p>17 Q. Do you remember receiving a copy of this</p> <p>18 policy?</p> <p>19 A. No.</p> <p>20 Q. Do you remember seeing this policy posted</p> <p>21 anywhere at WestPoint?</p> <p>22 A. They had something like -- about</p> <p>23 discrimination on the front when you walk</p>	<p>1 Q. Never seen one?</p> <p>2 MR. TIDWELL: I think he said he</p> <p>3 doesn't remember ever getting</p> <p>4 one.</p> <p>5 Q. Is that right?</p> <p>6 A. Uh-huh. (Positive response.)</p> <p>7 Q. Is that a yes? That will help her if you</p> <p>8 say yes or no.</p> <p>9 MR. TIDWELL: Answer yes or no,</p> <p>10 not uh-huh or huh-uh.</p> <p>11 A. No, I don't remember receiving one.</p> <p>12 Q. Fair enough.</p> <p>13 (Defendant's Exhibit 5 was marked</p> <p>14 for identification.)</p> <p>15 Q. Let me show you what I've marked as</p> <p>16 Defendant's Exhibit 5. And at the top, the</p> <p>17 title is WestPoint Stevens Guidebook for</p> <p>18 Salaried Associates booklet. And this is</p> <p>19 Bates stamped 0012. Is that your signature</p> <p>20 that appears on this page twice?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Look in the top section under the</p> <p>23 title Acknowledgment. That says: My</p>

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1 signature below acknowledges receipt of the
2 new guidebook which takes effect
3 immediately. I have read the disclaimer
4 written above, and I understand it and
5 acknowledge that the guidebook is not an
6 employment contract.
7 Did you understand that you were
8 signing, saying that you had received the
9 Guidebook for Salaried Associates?
10 A. Uh-huh. (Positive response.)
11 Q. Is that a yes?
12 A. Yes.
13 Q. Look with me at the second section of this
14 page. It's titled human resources policy
15 manual. And towards the bottom above your
16 signature, there's an acknowledgment
17 section. It says My signature below
18 acknowledges the publication of the new
19 WestPoint Stevens human resources policy
20 manual which takes effect immediately. Do
21 you see that?
22 A. Yes.
23 Q. Do you agree with me that you signed,

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1 acknowledging that you had received the new
2 human resources manual?
3 A. Yes.
4 (Defendant's Exhibit 6 was marked
5 for identification.)
6 Q. Let me show you what I've marked as
7 Defendant's Exhibit 6. This is another
8 section of the human resources policy
9 manual, and it's titled complaints covering
10 all associates. And it's Bates stamped
11 Lee/WPH 003 through -- I'm sorry. It's
12 Bates stamped 0336 through 0338.
13 Have you ever seen this policy before?
14 A. No.
15 Q. Do you ever remember seeing this policy
16 posted anywhere at WestPoint?
17 A. No.
18 Q. Ever remember reading this policy?
19 A. No.
20 Q. Do you ever remember receiving a policy
21 like this, a policy covering complaints for
22 what to do if you have a complaint?
23 A. No.

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1 Q. Look with me at Defendant's Exhibit 7.
2 (Defendant's Exhibit 7 was marked
3 for identification.)
4 Q. I've got one more policy to show you. This
5 is Bates stamped Lee/WPH 0427 through
6 0428. It's a section from the WestPoint
7 human resources policy manual on corrective
8 action covering salaried associates. Have
9 you ever seen this policy before?
10 A. Yes, they gave the salaried, exemption and
11 non-exemption, associates, you know, the
12 policy book.
13 Q. So you remember receiving a policy manual?
14 A. Yes.
15 Q. And you remember this being a section in
16 the policy manual?
17 A. Yes.
18 Q. Do you remember reading this policy?
19 A. Yes.
20 Q. Did you understand from this policy that
21 supervisors could write corrective actions
22 to address performance issues?
23 MR. TIDWELL: Object to the form.

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1 A. Do I what, now?
2 Q. Did you understand from this policy that a
3 supervisor could write a corrective action
4 report to address performance issues for
5 his or her employees?
6 MR. TIDWELL: Object to the form.
7 A. Yes.
8 Q. Mr. Lee, did you understand based on these
9 policies that you do remember receiving,
10 did you understand that if you had a
11 complaint or a problem, there was a
12 procedure that you could go through to
13 address that problem?
14 MR. TIDWELL: Object to the form.
15 A. Yes.
16 Q. You understood that if you felt like you
17 were being harassed or discriminated, there
18 was someone you could go to to report that?
19 MR. TIDWELL: Object to the form.
20 A. No, not really.
21 Q. All right. Tell me what you understood
22 about making a report.
23 A. Well, first of all, if you've got a

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<p>1 complaint, your supervisor; next, your 2 manager; the next is human resource. When 3 you go through all three of them there and 4 ain't nothing done about it, just -- 5 nothing else I can do. 6 Q. Do you remember seeing a hotline that you 7 could call? 8 A. Yes. 9 Q. So you could call that hotline after you 10 went up through the chain like you just 11 described? 12 A. Uh-huh. (Positive response.) 13 Q. Is that a yes? 14 A. Yes. 15 Q. Let me show you what I've marked as 16 Defendant's Exhibit 8. 17 (Defendant's Exhibit 8 was marked 18 for identification.) 19 Q. This is a copy of the complaint you filed 20 in federal district court against 21 WestPoint. Have you seen this document 22 before? 23 A. Yes.</p>	<p>1 Q. Sometime in March? 2 A. March the 20th, somewhere around there. 3 Q. That's fine. 4 Look over to the second page of your 5 complaint, paragraph five. It says that 6 you directed the work of anywhere between 7 65 and 80 subordinate employees. Is that 8 right? 9 A. Yes. 10 Q. Look at the next paragraph, paragraph six, 11 and I want to break this up a little bit. 12 First you say that WestPoint, quote, 13 discriminated against plaintiff in his 14 employment on the basis of -- I think that 15 should be his color, paren black, and race, 16 paren African-American, in that the 17 plaintiff was unfairly written up for lack 18 of efficiency while his shift was the only 19 shift to meet certain production goals. 20 Tell me every basis you have for that 21 allegation. 22 MR. TIDWELL: Object to the form. 23 A. Well, the first write-up in December, I</p>
Page 30	Page 32
<p>1 Q. Have you read it? 2 A. Yes. 3 Q. Who prepared it for you? 4 A. My lawyer. 5 Q. And do you remember who that was? 6 A. I started with Russ Goodman. 7 Q. Russ Goodman? 8 A. Uh-huh. (Positive response.) 9 Q. Do you remember when you decided to sue 10 WestPoint? 11 A. It was sometime in March. 12 Q. March of what year? 13 A. 2006. 14 Q. When did you first go see Mr. Goodman? 15 Did he help you with your EEOC charge? 16 A. Yes. 17 Q. Do you remember when you first went to see 18 him? 19 A. Yes. 20 Q. When was that? 21 A. It was March -- probably March the -- 22 around March the 20th -- I can't remember 23 the date.</p>	<p>1 come to work. Got to work about 10:30. So 2 my manager told me, said, we going to 3 personnel. 4 Q. Who was your manager? 5 A. Bob Turner. 6 And he told me, said -- on the way up 7 there, he said, we done talked to the first 8 shift and second shift supervisor, Mike and 9 Billy Wayne Bedsole, who's white. And he 10 said the plant manager wants something on 11 paper showing that -- we got a new 12 ownership coming in. We need something 13 showing that y'all are going to do a better 14 job supervising. I said, okay, I'll go 15 along with that. So they took me in 16 personnel. That's when they wrote up the 17 first write-up. 18 MR. TIDWELL: Claude, let me stop 19 you. She's talking about this 20 paragraph right here which 21 says that you were making the 22 production goals while the 23 other two supervisors weren't,</p>

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1 and I think her question was
2 directed at, what evidence do
3 you have that shows that the
4 other two were not making
5 their -- meeting production
6 requirements?

7 Is that what you were
8 asking?

9 MS. PATE: Well, that's part of
10 it. You can answer that
11 when --

12 Q. Let me see if I can rephrase it and maybe
13 that will help.

14 The first part of that -- and I think
15 maybe this is where you were going. You
16 allege that you were discriminated against
17 based on your race and your color, and you
18 say because you were unfairly written up
19 for lack of efficiency. Tell me what the
20 basis is for that allegation. Tell me what
21 you mean by that.

22 A. I think I was wrongfully written up because
23 I was black.

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1 Q. You think Bob Turner wrongfully wrote you
2 up?

3 A. Yes. But, see, like I said, when Bob --
4 that write-up with Bob before he resigned,
5 like I say, he say he talked to all three
6 of the supervisors, and all three of the
7 supervisors got the same thing. I don't
8 know whether all three of the supervisors
9 got the same thing or not.

10 Q. Did you understand from Bob Turner that
11 with the new management coming in,
12 everybody was under pretty close scrutiny?

13 A. Yes.

14 Q. All right. When you say lack of efficiency
15 in that paragraph, tell me what you mean by
16 that.

17 A. My efficiency was higher than the first and
18 second shift. They had -- Second shift and
19 first shift had a lack of efficiency.
20 Every week, we come out on top, the third
21 shift. Really, third shift, we had
22 probably 20 people less and we were still
23 making -- running just as much as they was.

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1 Q. What does efficiency mean? Does that mean
2 how much you're producing?

3 A. How much you're producing.

4 Q. And so you contend that you were producing
5 more?

6 A. With lesser people.

7 Q. Did you ever complain to anyone that you
8 were producing more and they were producing
9 less?

10 A. Well, when I talked to -- only thing about
11 third shift, it's a big turnover. Like
12 they have an opening on first or second
13 shift, the people that got seniority have a
14 chance to go to first shift. And, really,
15 I lose all the seniority on third shift.

16 Like the people I had when I left, they
17 had some that had been there 90 days, 60
18 days, a year. The most people I had out of
19 them -- I had about 65 I think when I left,
20 and I think I had about 10 employees that
21 probably had 15 or 20 years out of them
22 60. The rest of them was new people, but I
23 still making my percentage, what I was

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1 supposed to make.

2 Q. Would you agree with me that because you
3 had so much turnover, new people coming in
4 all the time, it was important to monitor
5 your associates?

6 MR. TIDWELL: Object to the firm.

7 A. Really, you have to -- if you got new
8 people, you have to, you know, train them
9 and -- where they can do good efficiency,
10 you know.

11 Like the night I talked to Mike Alford,
12 we had some Manpower people there. First
13 shift had about 30 Manpower people and I
14 didn't have but about ten. So he said --
15 really, I didn't have enough people to run
16 the machines.

17 And so he said, I'm going to get ten
18 people from first shift. And so I said,
19 okay. He said, I'm going to see can I get
20 them today -- in the morning and send them
21 to third shift, but he couldn't do it.

22 Then he told me the next day, say, I'm
23 going to have to hire you ten -- send you

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July 17, 2007

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1 ten people this week. Right before I left
2 that Thursday night, I had ten people come
3 in from Manpower, bring in new people to be
4 trained. Then that Saturday, they told me
5 I was terminated.

6 Q. So you have a lot of turnover on third
7 shift, new people coming in all the time?

8 A. Yes

9 Q. With new people coming in all the time, it
10 was important for you to make sure they
11 understood the work procedures?

12 A. Yes

13 Q. Monitor their work processes?

14 A. Yes

15 Q. Let's look back at paragraph six, and you
16 may have already answered this, but I want
17 to make sure I understand you. In
18 paragraph six of the complaint, you say:
19 The white shift supervisors received no
20 disciplinary action, while their shifts
21 performed inadequately compared to the
22 plaintiff's shift.

23 Who are the white supervisors you're

1 disciplinary action, is that -- are you
2 talking just about written notices?

3 A. They received one written write-up in
4 February, but still -- I had made 100
5 percent, but still I got wrote up, too,
6 again.

7 Q. So Mr. Bedsole and Mr. Etheridge did
8 receive a write-up?

9 A. Uh-huh. (Positive response.) In February.

10 Q. And do you consider that write-up as
11 disciplinary action?

12 A. The supervisor had told us that in two
13 weeks, if you ain't got 100 percent, your
14 shift get wrote up and the people get wrote
15 up. In them two weeks, my line had 100
16 percent.

17 So I got there on second shift that
18 night going to my work -- job, second shift
19 supervisor said, Billy Wayne, me and Mike
20 got wrote up -- first shift. He said, you
21 ain't getting wrote up because you've got
22 100 percent.

23 But the next morning when the manager

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1 talking about?

2 A. Billy Wayne Bedsole and Mike Etheridge.

3 Q. And you contend that your -- how do you
4 believe that they were performing
5 inadequately compared to you? Is that just
6 in terms of --

7 A. They give us an efficiency paper for all
8 three shifts.

9 Q. So just in --

10 A. See, they had -- they had a big bulletin
11 thing outside the door, and they tell what
12 each shift done every day. And they
13 tell a total, a percentage, what shift done
14 100 percent and what shift didn't do 100
15 percent.

16 Q. So you contend that Mr. Bedsole, Mr.
17 Etheridge were performing inadequately
18 compared to you based on production
19 numbers?

20 A. Uh-huh. (Positive response.)

21 Q. Anything else?

22 A. No.

23 Q. When you say that they received no

1 got there, he called me in there and he had
2 wrote me up about I need to take care of my
3 lines. How I don't take care of my lines
4 when I have 100 percent? He said you need
5 to do better taking care of my lines.
6 Well, all my lines had 100 percent.

7 Q. I want to talk about that in more detail in
8 just a minute.

9 In paragraph seven of the complaint,
10 you say: The plaintiff was eventually
11 removed from his supervisory position and
12 replaced by a less qualified Caucasian.

13 Who were you talking about there?

14 A. That's when Billy Wayne Bedsole, they had
15 told him to come to third shift in my
16 place. He was white.

17 Q. Why do you believe he was less qualified?

18 A. Because he wasn't making his hundred
19 percent on his -- on second shift, and they
20 sent him on my job where I was making 100
21 percent.

22 Q. So you believe that Mr. Bedsole was less
23 qualified because he was -- his production

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1 numbers were lower than yours?
2 A. Right.
3 Q. Look under count one of the complaint.
4 This is the only count in the complaint.
5 Paragraph ten says: Defendant's employment
6 practices discriminated against the
7 plaintiff on the basis of his race.
8 Tell me every basis you have for this
9 allegation.
10 A. Like I said, I was discriminated against
11 because they had told me that all three of
12 us was getting wrote up in December,
13 starting in December.
14 Q. When you say they, are you talking about
15 Bob Turner?
16 A. Bob Turner, yeah. Bob Turner the one told
17 me that.
18 And then January come. I supposed to
19 have a yearly evaluation. On my
20 evaluation, Bob Turner was gone. He had
21 been there all the whole year, and they had
22 Frank there. They give him the papers to
23 write my evaluation, and he didn't know

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1 about writing my evaluation because he had
2 been there less than a month.
3 Some of the evaluation, like, had been
4 changed on my paperwork from where I was
5 making, like, average or above.
6 Q. You think Frank changed your papers?
7 A. I don't know who changed the paperwork.
8 Q. You disagree with Frank's evaluation?
9 A. I disagree with it.
10 Q. What do you mean when you said that you
11 didn't know -- that Frank didn't know about
12 writing your evaluation?
13 A. He just had stepped in Bob Turner's place
14 about three weeks when we're supposed to do
15 the yearly review in January.
16 Q. And you don't think he knew how to do an
17 evaluation?
18 A. He said he didn't know how to do it. He
19 said, I haven't never done one of these
20 before.
21 Q. What position was Frank in before he became
22 your supervisor?
23 A. They had him something like -- what they

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1 put on the board was project manager, I
2 think.
3 Q. So he was in a management position before?
4 A. Project manager.
5 Q. Anything else you contend is evidence of
6 this paragraph ten under count one?
7 MR. TIDWELL: What other ways they
8 discriminated against you.
9 A. Not writing the two white supervisors and
10 writing me up.
11 Q. Talking about Bob Turner?
12 A. That was Frank and Mike Alford.
13 Q. Look at paragraph 11. It says:
14 Defendant's actions were flagrant and
15 intentional and in conscious disregard of
16 the plaintiff's right to be free of racial
17 discrimination in employment. Tell me the
18 basis that you have for this allegation.
19 A. I really don't understand it.
20 (Defendant's Exhibit 9 was marked
21 for identification.)
22 Q. Let me show you what I've marked as
23 Defendant's Exhibit 9. This is the

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1 affidavit that you filed in opposition to
2 WestPoint's motion for summary judgment.
3 Is that your signature on the last
4 page?
5 A. Yes.
6 Q. Flip with me to the second page, paragraph
7 seven. And I think you touched on this a
8 little bit earlier, but you say that the
9 third shift was the most difficult to
10 manage because of high turnover, given the
11 unusual hours.
12 A. Uh-huh. (Positive response.)
13 Q. What were the hours?
14 A. From 11:00 to 7:00 p.m.
15 Q. 11:00 a.m. to 7:00 p.m.?
16 A. Yeah. 11:00 p.m. to 7:00 p.m. -- 7:00 a.m.
17 I mean.
18 Q. 11:00 p.m. to 7:00 a.m.?
19 A. Uh-huh. (Positive response.)
20 Q. All right. I think we got that straight.
21 You may have said this earlier, but I
22 want to make sure I understand. About how
23 many new employees did you have coming in

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<p>1 regularly?</p> <p>2 A. In 2005, I had about 60 regular workers,</p> <p>3 and they hired some Manpower people. I had</p> <p>4 about 30 Manpower people.</p> <p>5 Q. And the Manpower people are the new people</p> <p>6 you're talking about coming in?</p> <p>7 A. Uh-huh. (Positive response.)</p> <p>8 Q. Is that a yes?</p> <p>9 A. Yes. They started hiring just the Manpower</p> <p>10 people.</p> <p>11 Q. And how often did you get new people from</p> <p>12 Manpower?</p> <p>13 A. If Manpower -- some of them didn't work</p> <p>14 that good, we would call Manpower, and they</p> <p>15 would change and get somebody else.</p> <p>16 Q. About how long, would you say, were the</p> <p>17 Manpower people there? Every two weeks,</p> <p>18 you'd get a new person or --</p> <p>19 A. It could, according to how they work. If</p> <p>20 they weren't working good, they would</p> <p>21 change over and get somebody else.</p> <p>22 Q. And then sometimes you'd have some of your,</p> <p>23 what you call, regular workers move from</p>	<p>1 2005, they sent everything down to</p> <p>2 Abbeville, WestPoint plant.</p> <p>3 Q. So you were doing more work?</p> <p>4 A. Doing more work, and they hired more</p> <p>5 people. Mostly Manpower people.</p> <p>6 Q. After the Clemson plant closed, your shift</p> <p>7 was doing more work?</p> <p>8 A. Uh-huh. (Positive response.)</p> <p>9 Q. And needed more employees?</p> <p>10 A. Uh-huh. (Positive response.)</p> <p>11 Q. Is that yes?</p> <p>12 A. That's when the lead person -- they get</p> <p>13 somebody to help me then. I was by myself</p> <p>14 from 2001 to 2004. That's when they had</p> <p>15 something like 35 employees. I didn't need</p> <p>16 no help with them. Like I said, when they</p> <p>17 closed down Clemson and got more workers,</p> <p>18 that's when they give me a lead person to</p> <p>19 help me.</p> <p>20 Q. So this in paragraph four is what you're</p> <p>21 talking about where you say that from March</p> <p>22 2000 to October 2004, you didn't have a</p> <p>23 lead person?</p>
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<p>1 third shift to another shift?</p> <p>2 A. Right. If a job come open on first or</p> <p>3 second shift, if they want to go, they had</p> <p>4 an opportunity to go.</p> <p>5 Q. All right. Look in paragraph eight of your</p> <p>6 affidavit. You say that you supervised on</p> <p>7 average between 35 and 40 employees; is</p> <p>8 that right?</p> <p>9 A. Yes.</p> <p>10 Q. Tell me. Before, you said there were 65 to</p> <p>11 80 employees. Is there a difference</p> <p>12 between --</p> <p>13 MR. TIDWELL: Object to the form.</p> <p>14 Q. -- the number that you supervised?</p> <p>15 MR. TIDWELL: Object to the form.</p> <p>16 A. If you got two supervisors, more people --</p> <p>17 that's when they got me a lead person to</p> <p>18 help me. As long as I had 30, 35, 40</p> <p>19 people, I supervised that by myself until</p> <p>20 they start bringing more Manpower people.</p> <p>21 Q. Were Manpower people brought in because you</p> <p>22 requested some more help?</p> <p>23 A. When they closed down the Clemson plant in</p>	<p>1 A. Huh-uh. (Negative response.)</p> <p>2 Q. And then the Clemson plant closed?</p> <p>3 A. Uh-huh. (Positive response.)</p> <p>4 Q. You were handling more work?</p> <p>5 A. Uh-huh. (Positive response.)</p> <p>6 Q. Is that a yes?</p> <p>7 A. Yes.</p> <p>8 Q. And then they gave you a lead person?</p> <p>9 A. Right.</p> <p>10 Q. Who was that lead person?</p> <p>11 A. Michael Lingo.</p> <p>12 Q. What's Michael Lingo's race?</p> <p>13 A. What was his raise? When he first come</p> <p>14 there, he was making 11.42.</p> <p>15 Q. I'm sorry. What's his race?</p> <p>16 A. He's black.</p> <p>17 Q. So from December 2005 through March 2006,</p> <p>18 you had a lead person working for you?</p> <p>19 A. Uh-huh. (Positive response.)</p> <p>20 Q. Is that a yes?</p> <p>21 A. Yes.</p> <p>22 Q. And that was Michael Lingo?</p> <p>23 A. Right.</p>

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1 Q. So Michael Lingo's job from at least
2 December 2005 through March 2006 was to
3 assist you?
4 A. Yes.
5 Q. Let's look on the next page at paragraph
6 ten. You say on or about August 2005,
7 there was a change in ownership at
8 WestPoint.
9 A. Uh-huh. (Positive response.)
10 Q. Is that right?
11 A. Yes.
12 Q. You'd agree with me that with the change in
13 ownership, there were operational changes;
14 some you've mentioned. Is that right?
15 A. Operational changes? Yes.
16 Q. Tell me about some of the changes that you
17 remember happening after that sale in 2005.
18 A. After that, like I say, they brought in
19 more people to work. They brought in some
20 machines to make up a box which didn't
21 halfway work. And that throwed, you know,
22 the percentage and stuff down, efficiency
23 down, slowed everything down.

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1 They changed out, like, some belts,
2 made a belt longer. Got more people on the
3 line. Where you had something like five
4 people on the line, they had, like, ten or
5 11 people on two lines. They changed it
6 out, made more people on the line.
7 Q. So you remember some changes in work
8 methods?
9 A. Uh-huh. (Positive response.)
10 Q. Is that a yes?
11 A. Yes.
12 Q. And you remember some distribution
13 functions being changed?
14 A. Yes.
15 Q. And new work processes --
16 A. Yes.
17 Q. -- being implemented?
18 Yes?
19 A. Yes.
20 Q. And you'd agree with me that while all
21 these changes were happening, everyone --
22 supervisors, management and all of the
23 processes were under pretty close scrutiny;

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1 is that right?
2 MR. TIDWELL: Object to the form.
3 A. No, I -- no.
4 Q. Would you agree with me that with the new
5 changes, that personnel were looked at
6 pretty closely to make sure the new
7 processes were being implemented?
8 MR. TIDWELL: Object to the form.
9 A. No, not really.
10 Q. Did you believe that the new changes that
11 were being implemented were being reviewed
12 by anyone?
13 MR. TIDWELL: Object to the form.
14 A. It was reviewed, but some of the changes
15 didn't work that good.
16 Q. Look at paragraph 12 of your affidavit.
17 You say that you were given a personnel
18 notice in December 2005 by Bob Turner who
19 was your supervisor at that time; is that
20 right?
21 A. Yes.
22 Q. And Brendt Murphy.
23 A. Yes.

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1 Q. What was Brendt Murphy's role that you
2 remember?
3 A. He was human resource.
4 Q. Human resources?
5 A. Manager. Uh-huh. (Positive response.)
6 Q. You say in that paragraph 12 that during a
7 meeting, quote, Turner restated his
8 confidence in me and my ability to perform
9 the job. Do you see that?
10 A. Yes.
11 Q. What meeting was that that that was said?
12 A. After we -- after they had wrote this
13 personnel notice, me and him was on the way
14 back to the wrapping, packing department.
15 He told me, said -- he said, I'd rather
16 have you the -- run the packing department
17 instead of Michael Lingo because you can
18 handle the people better.
19 Q. Now, Michael Lingo wasn't running the
20 packing department, was he?
21 A. Huh-uh. (Negative response.) He was
22 helping. He was a helper.
23 Q. He was your subordinate?

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<p>1 A. Uh-huh. (Positive response.)</p> <p>2 Q. Is that a yes?</p> <p>3 A. Yes.</p> <p>4 Q. And Michael Lingo reported directly to you?</p> <p>5 A. Yes.</p> <p>6 Q. In that same paragraph, you say that Turner</p> <p>7 had always been pleased with my</p> <p>8 performance; is that right?</p> <p>9 A. Yes.</p> <p>10 (Defendant's Exhibit 10 was marked</p> <p>11 for identification.)</p> <p>12 Q. Let me show you Defendant's Exhibit 10, and</p> <p>13 hang on to that affidavit because I want to</p> <p>14 go back to it in a minute.</p> <p>15 Is that your signature at the bottom of</p> <p>16 Defendant's Exhibit 10?</p> <p>17 A. Yes.</p> <p>18 Q. And is this the December 2005 personnel</p> <p>19 notice that you were referring to in</p> <p>20 paragraph 12?</p> <p>21 A. Yes, but all of it is not there. It was</p> <p>22 two pages. Another page -- it was another</p> <p>23 half a page.</p>	<p>1 Q. -- that we don't have here.</p> <p>2 A. It mentioned something about efficiency and</p> <p>3 doing 100 percent, what they want us to do</p> <p>4 that night that they talked to us.</p> <p>5 Q. And you believe that was written --</p> <p>6 A. That's the reason they was telling me keep</p> <p>7 getting on your workers, make sure your</p> <p>8 workers are working where they can make the</p> <p>9 efficiency every day -- every night.</p> <p>10 Q. And you believe that was a written</p> <p>11 document?</p> <p>12 A. This right here?</p> <p>13 Q. What you're talking about, you believe that</p> <p>14 there was a separate --</p> <p>15 A. It's another page, yeah.</p> <p>16 Q. Do you agree with me on this personnel</p> <p>17 notice there are no page numbers other than</p> <p>18 my Bates stamp number at the bottom?</p> <p>19 A. Yes.</p> <p>20 Q. So there's not anything indicating that</p> <p>21 there's more than one page to this; is that</p> <p>22 right?</p> <p>23 A. Huh-uh. (Negative response.)</p>
Page 54	Page 56
<p>1 Q. There was another page you think?</p> <p>2 A. Half a page.</p> <p>3 Q. And what do you think was on the other</p> <p>4 page?</p> <p>5 A. I don't know. Probably about my</p> <p>6 percentage.</p> <p>7 Q. What percentage?</p> <p>8 A. Efficiency, what you do, you know. They</p> <p>9 talked about percentages, too, that night.</p> <p>10 Q. So you think there's a second page to this</p> <p>11 personnel notice?</p> <p>12 A. There's a second page.</p> <p>13 Q. Were personnel notices usually one page or</p> <p>14 two pages?</p> <p>15 A. It's according to how much -- you know, if</p> <p>16 you run out of room, you put it on</p> <p>17 another -- another second page.</p> <p>18 Q. Did you receive a copy of it?</p> <p>19 A. No. If I remember, it was a page and a</p> <p>20 half.</p> <p>21 Q. And tell me specifically what you believe</p> <p>22 was on a second page that --</p> <p>23 MR. TIDWELL: Object to the form.</p>	<p>1 Q. Look with me towards the bottom.</p> <p>2 A. See, when I signed this right here, I</p> <p>3 signed the front page. Didn't sign nothing</p> <p>4 on the back page. Once you got a</p> <p>5 signature -- you don't sign the back page</p> <p>6 at all.</p> <p>7 Q. What does the back page look like?</p> <p>8 A. Another page like this right here, same</p> <p>9 thing as it had right here.</p> <p>10 Q. But you wouldn't have signed at the end of</p> <p>11 that page?</p> <p>12 A. Huh-uh. (Negative response.) Just the top</p> <p>13 page is all. One signature.</p> <p>14 Q. And you would have signed before the second</p> <p>15 page, not at the end of it?</p> <p>16 A. No. Signed the top page here.</p> <p>17 Q. Look with me under action taken. It says,</p> <p>18 quote: Told Claude that his performance</p> <p>19 and inability to lead his people made him</p> <p>20 an inefficient supervisor. This area must</p> <p>21 improve. He is required to enforce and</p> <p>22 correct work procedures, discipline</p> <p>23 situations, and communicate with other</p>

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1 supervisors and department manager to solve
 2 all obstacles, closed quote.
 3 Now, you'd agree with me, then, that in
 4 December of 2005, Mr. Turner was not
 5 pleased with your performance?
 6 MR. TIDWELL: Object to the form.
 7 A. What he was saying here, they had told the
 8 first and second shift supervisor that we
 9 got to start working with each other and
 10 telling each other and coming in early,
 11 coming in an hour early and get with the
 12 supervisor and make sure that everything is
 13 all right before they start my shift. Each
 14 supervisor had to do that. That's what
 15 they was telling right here. You know,
 16 make sure your performance do better than
 17 it was.
 18 Q. Communicating with --
 19 A. Yeah.
 20 Q. -- supervisors?
 21 A. Said all three supervisors, they told them
 22 the same thing: We got to start working
 23 with each other. We started having to come

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1 in at ten o'clock at night. I had to go
 2 out there on the floor and find out from
 3 Billy Wayne -- he was on second shift -- to
 4 see is anything -- everything all right for
 5 my shift to start.
 6 Q. Make sure that everything was --
 7 A. We had to start communicating with each
 8 other then.
 9 Q. And he said that you're required to enforce
 10 work procedures. What did you think that
 11 meant?
 12 A. Like I say, he wanted me to start -- make
 13 sure that my workers is doing their job,
 14 make sure the machines is running and all
 15 that.
 16 Q. Did you disagree with Mr. Turner's
 17 criticism of your performance?
 18 MR. TIDWELL: Object to the form.
 19 A. Yes.
 20 Q. Look back with me at your affidavit. In
 21 paragraph 13, you say that you noticed
 22 there was not any indication as to the type
 23 of notice on the December 2005 personnel

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1 notice that you received.
 2 A. (Witness nods head up and down.)
 3 Q. Tell me what that means.
 4 A. Well, the only thing, you know -- like my
 5 employees, if I got to write them a
 6 commendation, you would -- you would put a
 7 six in this block. If I got to write them
 8 a miscellaneous the first time, I would put
 9 a seven in that block. And a pink slip is
 10 different. A pink slip has got a
 11 counseling on the pink slip.
 12 Q. A what?
 13 A. You get a counseling first on the pink
 14 slip. You get three warnings. You have to
 15 mark -- check first warning, second
 16 warning, third warning on the pink slip.
 17 This here is just a personnel notice.
 18 This paper right here -- what I was using
 19 for my workers is not a write-up. It's
 20 just a commendation, notice of change --
 21 that would be something like a change of
 22 job pay or something like that.
 23 And this spot -- only three we use,

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1 notice of change, a commendation, and
 2 miscellaneous.
 3 Q. Look with me on that Exhibit 10 under
 4 situation in brief towards the top. That
 5 says job performance, right?
 6 A. Uh-huh. (Positive response.)
 7 Q. Is that a yes?
 8 A. Yes.
 9 Q. So you understood that personnel notice to
 10 be a write-up about job performance; is
 11 that right?
 12 MR. TIDWELL: Object to the form.
 13 A. Yes.
 14 Q. Okay.
 15 A. But, see, you can write up like a
 16 miscellaneous. If some of my workers doing
 17 a poor job performance and I write a
 18 miscellaneous, I check a seven up there and
 19 turn this in. The next time, if they doing
 20 bad and ain't doing their job performance,
 21 they get a counseling. That's a pink slip.
 22 Q. That's how you do it?
 23 A. That's how we done it.

Deposition of Claude Gene Lee, Sr.

July 17, 2007

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1 Q. Okay. Look back with me at the affidavit.
 2 After Bob Turner left WestPoint, Frank
 3 Major became your supervisor; is that
 4 right?
 5 A. Yes.
 6 Q. And Mr. Major is an African-American?
 7 A. Yes.
 8 Q. In paragraph 14 of your affidavit -- that's
 9 page five -- you say that you had very
 10 little interaction with Mr. Major.
 11 A. Uh-huh. (Positive response.)
 12 Q. Tell me all the interaction that you had
 13 with him.
 14 A. Onliest time -- Frank, sometime he come in
 15 from 6:00 to 7:00 or 6:30 to 7:00. And
 16 when he come in, he'll come in. He'll come
 17 straight to me out on the floor. Only
 18 thing he'll do is shake my hand and ask me
 19 how everything was going. That's about all
 20 he tell me. He never asked me any kind of
 21 questions or nothing like that.
 22 Q. You never had any conversations with
 23 Mr. Major?

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1 A. Not many conversations. Huh-uh. (Negative
 2 response.)
 3 Q. Every morning when he came in and said good
 4 morning to you, you-a ll didn't have any
 5 sort of conversation?
 6 A. Nothing but asked how everything was
 7 going. That's about it.
 8 Q. And you don't remember him ever coming back
 9 to you throughout the course of your shift
 10 to talk to you?
 11 A. No, ma'am.
 12 Q. Ever?
 13 A. No.
 14 Q. So the only interaction you ever remember
 15 having with Mr. Major is him coming in
 16 first thing -- first start of the shift?
 17 A. Uh-huh. (Positive response.)
 18 Q. Is that a yes?
 19 A. Yes.
 20 Q. And that's the only interaction --
 21 MR. TIDWELL: Obje ct to the form.
 22 Are you talking about during
 23 work or write -ups or

1 anything? What are you
 2 talking about?
 3 MS. PATE: I'm talking about
 4 anytime.
 5 A. Well, if a write-up -- he just said, you
 6 the supervisor. Write it up. He said, I
 7 ain't got nothing to do with it. He said,
 8 you ain't got to come to me to write nobody
 9 up.
 10 Q. I don't understand what you mean.
 11 A. If I had to write a miscellaneous or pink
 12 slip --
 13 Q. For one of your employees?
 14 A. Uh-huh. (Positive response.)
 15 Q. He would let you do that?
 16 A. You had to do that on your own.
 17 Q. Did you disagree with him letting you write
 18 your employees up?
 19 A. When Bob Turner was there, he always say,
 20 you know, you come to me before you write
 21 anybody up and I'll verify it. But with
 22 Frank, he just said, you do it on your
 23 own. He said, you know what to do, just go

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1 ahead and write them up.
 2 Q. Did you feel like that was part of your job
 3 responsibility as a supervisor, to
 4 review --
 5 A. Onliest thing, when Brendt Murphy -- Bob
 6 told me, said, they got to make sure that
 7 you have all the write-ups before you fire
 8 anybody, take anybody outside. Make sure
 9 they got enough write-ups. If they ain't
 10 got enough write-ups, you can go up under a
 11 lawsuit.
 12 Q. You understood that part of your job as a
 13 supervisor was to monitor your employees
 14 and write them up if necessary?
 15 A. Yes.
 16 Q. The only interaction that you contend you
 17 had with Mr. Majors was just the first part
 18 of your shift?
 19 A. Uh-huh. (Positive response.)
 20 Q. Is that a yes?
 21 A. Yes. Like that Saturday morning when they
 22 fired me, only thing he done that Saturday
 23 morning, he come to me and just shook my

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<p>1 hand.</p> <p>2 Q. You don't remember having any other</p> <p>3 conversations with Mr. Major --</p> <p>4 A. No.</p> <p>5 Q. Mr. Major completed a performance review</p> <p>6 for you in January of 2006, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Let me show you what I've marked as</p> <p>9 Defendant's Exhibit 11.</p> <p>10 (Defendant's Exhibit 11 was marked</p> <p>11 for identification.)</p> <p>12 Q. And it's Bates stamped Lee/WPH 0036 through</p> <p>13 0040. Is that your signature on the last</p> <p>14 two pages of that document?</p> <p>15 A. Yes.</p> <p>16 Q. And is this the performance review that</p> <p>17 Frank Major completed in January of 2006</p> <p>18 for you?</p> <p>19 A. This doesn't look like the same thing.</p> <p>20 Q. Tell me what you mean. It doesn't look</p> <p>21 like the same thing, what?</p> <p>22 A. These papers that I had. This paper, this</p> <p>23 right here, this is not my handwriting</p>	<p>1 A. Yes.</p> <p>2 Q. You disagreed with Mr. Major's critiques of</p> <p>3 your job performance?</p> <p>4 A. Yes.</p> <p>5 Q. Look back at --</p> <p>6 A. This right here where it says meet job</p> <p>7 requirements, that stuff is supposed to be</p> <p>8 fully -- we don't turn it in like this</p> <p>9 right here.</p> <p>10 Q. You remember when you met with Mr. Major to</p> <p>11 talk about this job performance, you</p> <p>12 remember that he had rated you fair; is</p> <p>13 that right?</p> <p>14 MR. TIDWELL: Object to the form.</p> <p>15 A. No.</p> <p>16 Q. What do you remember?</p> <p>17 A. It wasn't no fair on there.</p> <p>18 Q. What do you remember was on there?</p> <p>19 A. Average.</p> <p>20 Q. Average?</p> <p>21 A. Uh-huh. (Positive response.)</p> <p>22 Q. You think it was more -- average when you</p> <p>23 signed it?</p>
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<p>1 here.</p> <p>2 Q. On the front where it says your name and</p> <p>3 department, facility, that's not your</p> <p>4 handwriting?</p> <p>5 A. Huh-uh. (Negative response.)</p> <p>6 Q. Tell me at the back, the last two pages, is</p> <p>7 that your signature?</p> <p>8 A. That's my signature.</p> <p>9 Q. Did you see this performance review?</p> <p>10 A. Yes, but it didn't look like this right</p> <p>11 here. It's whited out, all this stuff</p> <p>12 right here.</p> <p>13 Q. Did you get a copy of it?</p> <p>14 A. No. Your performance review when you turn</p> <p>15 it in, it don't look like this right here.</p> <p>16 Everything is fully ...</p> <p>17 Q. Tell me this. When you signed this</p> <p>18 document, Mr. Major had recorded on the</p> <p>19 page Bates stamped Lee/WPH 0038 -- look</p> <p>20 on -- look in Section E where it says</p> <p>21 overall performance rating. There's a</p> <p>22 checkmark under the fair box. Do you see</p> <p>23 that?</p>	<p>1 A. Yes.</p> <p>2 MR. TIDWELL: Are you talking</p> <p>3 about the overall rating or</p> <p>4 what?</p> <p>5 MS. PATE: Yeah, I'm talking about</p> <p>6 the overall rating, the</p> <p>7 performance rating that</p> <p>8 appears on the first page and</p> <p>9 the third page.</p> <p>10 Q. And you think it was marked average?</p> <p>11 A. Yes.</p> <p>12 Q. Mr. Lee, go back to your affidavit. Look</p> <p>13 at paragraph 19 on page six of your</p> <p>14 affidavit. You say in paragraph 19 that</p> <p>15 you disagreed with Mr. Major's criticisms</p> <p>16 of your job performance and that you were</p> <p>17 making or exceeding production quotas; is</p> <p>18 that right?</p> <p>19 A. Yes.</p> <p>20 Q. Look back with me at the job performance</p> <p>21 review.</p> <p>22 MR. TIDWELL: Talking about Frank</p> <p>23 Majors?</p>

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1 MS. PATE: Yes. Sorry. 2006,
2 Defendant's Exhibit 11.
3 (Defendant's Exhibit 12 was marked
4 for identification.)
5 Q. Actually, let me do this. Let me show you
6 Defendant's Exhibit 12. Is this the
7 February 2006 personnel notice that
8 Mr. Major gave you?
9 A. This is not what he had told me. Only
10 thing -- only thing, what I signed was
11 talking about my lines, I needed to do
12 better on my lines. But I had made 100
13 percent them two weeks.
14 Q. You're talking about production quotas?
15 A. Uh-huh. (Positive response.) This right
16 here, I haven't read nothing like this
17 right here.
18 Q. Look at the bottom. Is that your
19 signature?
20 A. That's my signature.
21 Q. And it's dated February 16th, 2006 next to
22 your signature?
23 A. Yes.

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1 Q. And this personnel notice at the top is
2 dated February 2006, the 16th of --
3 A. Yes. Like I said, it's the same one when
4 first and second shift did not make their
5 quota, and he wrote me up, too.
6 Q. Do you contend that you've never seen this
7 personnel notice before?
8 A. Like I say, he give me a job performance,
9 but it didn't read this right here.
10 Q. But that's your signature at the bottom of
11 the page?
12 A. That's my signature.
13 Q. All right. Look where it says details in
14 the middle of the page. It says: This
15 personnel notice is to inform you of the
16 need to increase the monitoring of your
17 associates. There is an excessive waste of
18 time and motion. I think this should be --
19 your associates continue to use improper
20 job methods even after the correct method
21 has been given or even shown to them.
22 There also needs to be an immediate
23 increase in your problem solving, of

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1 incorrect work flow throughout the
2 department.
3 That doesn't say anything about
4 production quotas, does it?
5 A. Like I say, I ain't never seen this, not
6 this right here.
7 Q. This first part under details, it doesn't
8 say anything about production quotas, does
9 it?
10 A. Huh-uh. (Negative response.)
11 Q. Is that a no?
12 A. No.
13 Q. The last part reads: There also needs to
14 be an improvement in communication with the
15 previous supervisor for potential problems
16 that may have occurred during the shift or
17 even issues that you find during your walk-
18 through. These need to be addressed
19 immediately. You're being issued a
20 personnel notice for poor job performance.
21 That second part doesn't say anything
22 about production quotas, does it?
23 A. Huh-uh. (Negative response.)

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1 Q. Is that a no?
2 A. No.
3 Q. Now, did you disagree with Mr. Major's
4 criticism of your performance here that we
5 just went over?
6 A. Yes.
7 Q. Look with me at the bottom of that
8 personnel notice, Defendant's Exhibit 12,
9 under action taken. It says: Covered the
10 above with Claude. Asked him if he needed
11 any other guidance or assistance. Failure
12 to meet these goals and guidelines
13 immediately will result in corrective
14 action which may include removal from your
15 job.
16 Did you understand that?
17 A. This right here, this writing on these -- I
18 never seen -- he never said anything to me
19 like that.
20 Q. You never saw that writing?
21 A. Huh-uh. (Negative response.)
22 MR. TIDWELL: Object to the form.
23 He's already answered that

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1 about ten times.
2 Q. So this document, everything on this
3 document but your signature you've never
4 seen before?
5 A. (Shakes head from side to side.)
6 Q. Is that right?
7 A. Right.
8 Q. What do you contend that you signed on
9 February 16th, 2006?
10 A. He was just telling me that I needed to see
11 about my lines more, better. But I had
12 made 100 percent. It wasn't but a few --
13 few lines what he had wrote.
14 Q. And none of these lines that we've just
15 gone over were the ones that you contend
16 you saw?
17 A. Huh-uh. (Negative response.) Unless he
18 changed it after I walked out.
19 Q. Unless what?
20 A. He changed it after I walked out.
21 Q. The document that you contend that you
22 signed on February 16th, 2006, was it
23 typewritten?

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1 A. No, it was computer, on the computer.
2 Q. It was like this?
3 A. Uh-huh. (Positive response.)
4 Q. It wasn't handwritten?
5 A. Huh-uh. (Negative response.)
6 Q. It was just like this one?
7 A. Uh-huh. (Positive response.) Unless he
8 changed his computer after I left out.
9 Q. Okay.
10 A. That's not what I read February 16th.
11 Q. But that's your signature at the bottom?
12 A. Right. That's my signature.
13 Q. In late February -- sometime in February
14 2006, Michael Alford became your
15 supervisor?
16 A. Yes.
17 Q. He took Frank Major's place?
18 A. Yes.
19 Q. And Mr. Major was promoted, wasn't he?
20 A. He was still there training Mike Alford.
21 Q. He was still at WestPoint, but he was given
22 a higher position, right?
23 A. Only thing I know, he was still there with

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1 Mike Alford, training him when he got
2 there.
3 Q. Do you remember Mr. Majors being promoted
4 to a higher position at all?
5 A. Only thing I heard, he went to another
6 position. He went to supervisor after I
7 left -- on first shift.
8 Q. I'm talking about while you were there when
9 Mr. Alford came in. Do you remember
10 Mr. Majors being promoted?
11 A. He was still there in the packing, training
12 Mike Alford.
13 Q. After he trained Mike Alford, do you
14 remember him being promoted?
15 A. That's after I left, you know. They made
16 them changes. He went -- he went to first
17 shift to be a supervisor.
18 Q. Okay.
19 A. When I left, he went to a supervisor on
20 first shift. Mike Etheridge went to second
21 shift, and Billy Wayne Bedsole took my
22 place on third shift.
23 Q. Look at your affidavit on the seventh

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1 page.
2 A. Seven?
3 Q. Seven, paragraph 22. You say: It is my
4 understanding Alford's previous employment
5 was managing a Movie Gallery store and that
6 he had no background managing people in the
7 industry.
8 Tell me what the basis of your
9 knowledge is.
10 A. He be out there on the floor, you know,
11 hollering at people and stuff, which he
12 shouldn't be doing out there on the floor.
13 If he got any kind of problem with any
14 employee, you know, you supposed to call
15 them in the office and tell them about that
16 problem instead of out there on the floor,
17 what he was doing.
18 MR. TIDWELL: She's just asking
19 you about how you understood
20 he was a manager of Movie
21 Gallery before he came to
22 WestPoint.
23 Q. Right.

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1 A. He said he was. He told me he was.
 2 Q. I think you started to explain the second
 3 part of that paragraph where you say he was
 4 using profanity and prone to outbursts.
 5 Tell me about that.
 6 A. If he get upset, that's what he do. He
 7 outburst and holler at you on the floor.
 8 Q. Everybody on the floor?
 9 A. Yeah, anybody he can holler at.
 10 Q. All the employees?
 11 A. Uh-huh. (Positive response.) First,
 12 second and third shift was talking about
 13 it.
 14 Q. So all the employees on all of those shifts
 15 experienced that?
 16 A. Yes.
 17 Q. Black and white, young and old?
 18 A. Yes.
 19 Q. What sorts of thing would he say?
 20 A. What y'all waiting on? This machine don't
 21 supposed to be stopped. This machine -- go
 22 to another machine, stuff like that, you
 23 know.

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1 Q. You contend when he said those sorts of
 2 things he was hollering?
 3 A. Hollering, real loud.
 4 Q. Real loud?
 5 A. Uh-huh. (Positive response.)
 6 Q. Is that a yes?
 7 A. Yes.
 8 Q. And when he said those sorts of things to
 9 all of the employees on the shift, you
 10 contend that he used profanity?
 11 A. Yes.
 12 Q. And he would say those things to everybody
 13 on the third shift?
 14 A. Yes.
 15 Q. Everybody on the second shift?
 16 MR. TIDWELL: Object to the firm.
 17 A. No. He would say the things to some
 18 people.
 19 Q. On all the shifts?
 20 A. I don't know about all the shifts, but the
 21 other shift was talking about how he keep a
 22 rage up on the shift.
 23 Q. Okay. Did you ever complain to anybody

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1 about him raising his voice or using
 2 profanity?
 3 A. No. Huh-uh. (Negative response.)
 4 Q. No?
 5 A. No.
 6 Q. That helps her get it down. She has a hard
 7 time getting uh-huh or huh-uh.
 8 (Defendant's Exhibit 13 was marked
 9 for identification.)
 10 Q. Let's look at Defendant's Exhibit 13. Is
 11 this the corrective action report that
 12 Mr. Alford completed for you?
 13 A. It wasn't in no handwriting here.
 14 Q. What do you mean?
 15 A. He had it on computer.
 16 Q. Who had it -- who had what on computer?
 17 A. My March the 8th.
 18 Q. Is that your signature at the bottom of the
 19 page, Mr. Lee?
 20 A. Yes.
 21 Q. And is it -- this document at the top, is
 22 it dated March 8th, 2006?
 23 A. Yes.

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1 Q. Do you contend that you've never seen this
 2 document before?
 3 A. That's different right there because he had
 4 it on computer.
 5 Q. Tell me what's different.
 6 MR. TIDWELL: Read the language
 7 and see what's different, if
 8 you remember.
 9 A. Like that first -- first line.
 10 Q. Claude is not performing his duties as
 11 supervisor?
 12 A. I hadn't read that there.
 13 Q. That wasn't on the document that you read?
 14 A. Huh-uh. (Negative response.) It was
 15 completed on computer.
 16 Q. Do you mean you read it off the screen of a
 17 computer or --
 18 A. Huh-uh. (Negative response.) He had print
 19 it out on the computer.
 20 Q. It was typed?
 21 A. Uh-huh. (Positive response.)
 22 Q. Is that a yes?
 23 A. Yes.

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1 Q. And it didn't say what this document says?
2 Is that what you contend?
3 A. Huh-uh. (Negative response.) Some of this
4 ain't.
5 Q. I'm sorry?
6 A. Some of it on here is not, not what he --
7 Q. Let's go through it line by line, and I
8 want you to tell me what you remember.
9 The first line under performance/
10 conduct description, it says: Claude is
11 not performing his duties as a supervisor.
12 Do you contend that was not on the document
13 that you read?
14 A. Huh-uh. (Negative response.) That wasn't
15 on there.
16 Q. The second sentence says: When working
17 last Thursday, paren 3-2-06, closed paren,
18 Claude was questioned about an employee not
19 working. Was that on the document you
20 contend that you read?
21 A. He talked to me about this employee.
22 Q. Do you remember seeing that on the
23 corrective action report that you saw on

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1 March 8th, 2006?
2 A. Onliest thing, when he called me in there
3 March the 2nd, 2006, he said -- March the
4 8th I mean. He called me in there and
5 said -- that was a week later. Said, I
6 didn't like the way you handled that
7 employee -- a week later.
8 Q. Okay. But you remember that he had written
9 a corrective action report about that?
10 A. Yes.
11 Q. So you think that the second -- that the
12 second sentence on this Defendant's Exhibit
13 13 was in the document that you contend you
14 read on March 8th?
15 A. Yes.
16 Q. But not the first sentence?
17 A. Uh-huh. (Positive response.)
18 Q. Is that a yes?
19 A. Yes.
20 Q. Let's go to the third sentence: He
21 answered he did not know why and did not
22 question the employee about it.
23 Was that on the document -- the

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1 typewritten document you think you read on
2 March 8th?
3 A. I wouldn't think so because we talked --
4 talked about out on the floor, the guy went
5 and washed his hands. And like I say, he
6 was just carrying on about the employee on
7 the floor going to wash his hands, that he
8 needed to be working. Only thing he was
9 telling me, to go ahead on and fire the
10 guy.
11 Q. Mr. Lee, all I'm concerned about right now
12 is what the document said that you think
13 you saw on March 8th, 2006, that you
14 contend was different than Defendant's
15 Exhibit 13 that has your signature on it.
16 A. Like I say, he questioned me about the
17 employee out there on the floor and he
18 called me in there a week later and said he
19 didn't like the way I handled the situation
20 about the employee.
21 Q. Look at the last sentence in that same
22 section: We have discussed this on several
23 occasions and in great detail.

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1 A. Not several occasions, just that night.
2 Q. Do you remember that sentence being in the
3 typewritten document that you contend you
4 saw on March 8th, 2006?
5 A. No.
6 Q. No?
7 A. No.
8 Q. All right. So you believe that you saw a
9 typewritten corrective action report dated
10 March 8th, 2006 --
11 A. Um-huh. (Positive response.)
12 Q. -- that did not contain the first sentence
13 or the last sentence --
14 A. Um-huh. (Positive response.)
15 Q. -- of this section marked performance/
16 conduct description?
17 A. Yes.
18 Q. But it did contain the sentences in
19 between?
20 A. Yes.
21 Q. And it was typewritten?
22 A. Uh-huh. (Positive response.)
23 Q. Did you receive a copy of it?

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1 A. No.
2 Q. You don't have a copy of it?
3 A. Huh-uh. (Negative response.)
4 Q. Is that a no?
5 A. No.
6 Q. All right. Let's look at disciplinary
7 action taken. It's the next section of
8 Defendant's Exhibit 13, it says: Claude is
9 being issued a written corrective action
10 for poor job performance. Do you see that?
11 A. Yes.
12 Q. Do you contend that that was on the
13 typewritten document that you believe was
14 different, but also dated March 8th, 2006?
15 A. It's a whole different -- it's a whole
16 different page here.
17 Q. Tell me --
18 A. What he wrote was the same thing like this
19 personnel notice right here, same kind of
20 paper, the personnel notice. This right
21 here -- exemption, non-exemption wasn't on
22 this stuff, what I signed.
23 Q. You contend on March 8th, 2006, you signed

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1 a document titled personnel notice?
2 A. Personnel notice.
3 Q. Not corrective action report?
4 A. Huh-uh. (Negative response.)
5 Q. Is that a no?
6 A. No.
7 Q. So you contend that you signed a personnel
8 notice --
9 A. Personnel notice.
10 Q. -- on March 8th, 2006 that contained the
11 second sentence that's in the performance/
12 conduct description?
13 MR. TIDWELL: Object to the form.
14 She's asking you if it
15 contained the exact second
16 sentence on the document.
17 THE WITNESS: What, now?
18 MR. TIDWELL: She's asking if this
19 exact sentence -- not the same
20 concept, but the exact
21 sentence was written on the
22 report that you saw.
23 I think that's what

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1 you're asking.
2 THE WITNESS: Was what, now?
3 MR. TIDWELL: She's asking if this
4 exact sentence starting with
5 when working last Thursday, if
6 that exact sentence was on the
7 report that you saw. If you
8 don't know --
9 A. Like I say, I really don't know, because he
10 questioned me out there on the floor about
11 the employee, and that was it. Then he
12 came back March the 8th and said I didn't
13 like the way you handled that employee.
14 Q. Okay.
15 A. That's the only thing I know.
16 Q. And when he said that to you, did he have
17 you sign a document?
18 A. No. He came back March the 8th with it.
19 Q. On March the 8th, you signed a document
20 acknowledging that?
21 A. A week later.
22 Q. But you contend that the document --
23 A. But the employee was already fired.

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1 Q. Let me finish my question so that we don't
2 talk over each other. That way our record
3 will be easier to understand.
4 You contend that the document you
5 signed on March 8th, 2006 is not
6 Defendant's Exhibit 13 with your signature
7 on it; is that right?
8 A. That's not my -- that don't look like my
9 signature because I don't write my L's like
10 that.
11 Q. Wait. Now, you say this is not your
12 signature?
13 A. Uh-huh. (Positive response.)
14 Q. Is that a yes?
15 A. Yes.
16 Q. Mr. Lee, just a couple of minutes ago, you
17 told me that that is your signature. Is
18 that a yes? Is this your signature or is
19 it not?
20 MR. TIDWELL: If you don't know,
21 you don't know.
22 A. I really don't know. Like I said, this
23 right here was in -- in -- computer.

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1 Q. Okay.
2 A. Computer writing.
3 Q. I understand that, but that's not my
4 question. My question is, is this your
5 signature at the bottom of the page of
6 Defendant's Exhibit 13?
7 A. I'm going to say no.
8 Q. No. All right. Look back with me at
9 Defendant's Exhibit 12.
10 MR. TIDWELL: Let me find it.
11 Q. Now, you said that's your signature on
12 Defendant's Exhibit 12, correct?
13 A. Uh-huh. (Positive response.)
14 Q. Is that a yes?
15 A. Yes.
16 Q. Does that not look like the same signature
17 on Defendant's Exhibit 12 and 13?
18 MR. TIDWELL: Object to the form.
19 A. No.
20 Q. I want to go back to your affidavit.
21 MR. TIDWELL: What exhibit is it?
22 MS. PATE: Mr. Lee has got it in
23 front of him.

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1 Q. All right. Look with me at paragraph 23 of
2 your affidavit. You contend that this
3 situation that is discussed in paragraph
4 three where you were given a corrective
5 action report --
6 A. Yes.
7 Q. -- is not the same as Defendant's Exhibit
8 13?
9 A. No.
10 MR. TIDWELL: Kelly, why don't we
11 take about a five-minute
12 break. Is that all right with
13 you?
14 MS. PATE: That will be fine.
15 (Brief recess was taken.)
16 Q. Going back on the record, Mr. Lee, I want
17 to go back to your affidavit. Take a look
18 at paragraph 23. You say in that
19 paragraph: Although he had acted as my
20 supervisor for approximately two weeks, he
21 gave me a new form labeled corrective
22 action report.
23 Who is the he you're referring to

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1 there? Is that Michael Alford?
2 A. Mike Alford.
3 Q. You say: This form was discussed on March
4 8th, but referenced an incident that
5 occurred on March 2nd, 2006. You cite in
6 that paragraph to Brendt Murphy's affidavit
7 with attached Exhibit 2. Do you see that?
8 A. Yes.
9 Q. I want to show you what's been marked as
10 Defendant's Exhibit 19.
11 (Defendant's Exhibit 19 was marked
12 for identification.)
13 Q. That's a copy of Brendt Murphy's
14 declaration. Is this the document that
15 you're referring to in paragraph 23?
16 Maybe this will be easier. Look at
17 Exhibit 2 of Defendant's Exhibit 19 and
18 tell me if that's what you're referring to
19 in paragraph 23 as the corrective action
20 report that you received on March 8th,
21 2006.
22 A. Tell you what, now?
23 Q. Is Exhibit 2 --

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1 MR. TIDWELL: This.
2 Q. -- of Defendant's Exhibit 19, is that the
3 corrective action report that you received
4 on March 8th, 2006 and refer to in
5 paragraph 23 of your affidavit?
6 A. Everything that I received I thought was
7 personnel notices. This right here got
8 salary, exempt and non-exempt, which I
9 haven't seen nothing but personnel notices.
10 Q. Look back at paragraph 23 of your
11 affidavit. It says in the second line,
12 quote: He gave me a new form labeled
13 corrective action report, closed quote. Do
14 you see that?
15 A. Yes.
16 Q. Do you now deny that he gave you -- Mike
17 Alford gave you a corrective action report?
18 A. He give me a corrective action report, but
19 I thought it was a personnel notice.
20 Q. But he did give you a corrective --
21 A. Right.
22 Q. -- action report?
23 A. Uh-huh. (Positive response.)

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- 1 Q. Yes?
- 2 A. Yes.
- 3 Q. And is the corrective action report that he
- 4 gave you and that you mention in paragraph
- 5 23 the same as Exhibit 2 of Defendant's
- 6 Exhibit 19?
- 7 A. No.
- 8 Q. Look back at your affidavit with me,
- 9 paragraph 23. Right after you say he gave
- 10 me a new form labeled corrective action
- 11 report, you cite to Murphy's affidavit,
- 12 which is Defendant's Exhibit 19 with
- 13 attached Exhibit 2. Do you see that?
- 14 A. Yes.
- 15 Q. Do you now contend that Exhibit 2 attached
- 16 to Murphy's declaration is not the
- 17 corrective action report that you received?
- 18 A. No, I think it's a personnel notice instead
- 19 of a ... I hadn't never seen anything with
- 20 WestPoint Home on it.
- 21 Q. You've never seen anything with WestPoint
- 22 Home on it?
- 23 A. Not no paper like this right here. Only

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- 1 thing I ever seen was personnel notices.
- 2 Q. Look at the bottom of attached Exhibit 2 to
- 3 Defendant's Exhibit 19. In the left-hand
- 4 corner, is that your signature?
- 5 A. I don't know. I don't know.
- 6 Q. Do you contend now that you've never seen
- 7 attached Exhibit 2 to Defendant's 19, the
- 8 corrective action report dated March 8th,
- 9 2006?
- 10 A. I just don't know.
- 11 Q. You don't know if you've ever seen it?
- 12 A. I don't know if I've seen -- I don't know.
- 13 Only thing I seen was personnel notices.
- 14 Q. The only thing you have ever seen was a
- 15 personnel notice?
- 16 A. Personnel notice.
- 17 Q. You've never seen a corrective action
- 18 report?
- 19 A. Not on this kind of paper.
- 20 Q. Have you ever seen a corrective action
- 21 report on any kind of paper?
- 22 A. Personnel notice.
- 23 Q. But not a corrective action report?

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- 1 A. Just a personnel notice.
- 2 Q. Tell me what you believe the difference is
- 3 between a corrective action report and a
- 4 personnel notice.
- 5 A. A personnel notice just telling you what
- 6 you need to do to correct something.
- 7 Q. And tell me what you believe a corrective
- 8 action report --
- 9 A. Corrective action is when they -- you get
- 10 write up -- you getting wrote up. You got
- 11 three times you can write up.
- 12 Q. So you believe when you receive a personnel
- 13 notice critical of your job performance,
- 14 that's not a write-up?
- 15 A. It shouldn't be a write-up. It's just
- 16 something giving you -- telling you that
- 17 you need to do better or something like
- 18 that there.
- 19 Q. And so receiving a written document that
- 20 tells you you need to do better is not a
- 21 write-up in your mind?
- 22 A. Huh-uh. (Negative response.)
- 23 Q. Is that a no?

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- 1 MR. TIDWELL: Object to the form.
- 2 A. I don't know.
- 3 Q. Mr. Lee, I want to make sure that we
- 4 understand each other and that I understand
- 5 what you're saying. Are you telling me
- 6 that you have never seen and never received
- 7 a corrective action report?
- 8 A. I don't know whether -- not on a personnel
- 9 notice.
- 10 MR. TIDWELL: She's asking if
- 11 you've ever received a
- 12 corrective action report, but
- 13 did you ever receive --
- 14 THE WITNESS: No.
- 15 Q. Never received a corrective action report?
- 16 A. No.
- 17 Q. Okay. Turn to page eight of your
- 18 affidavit. Look at paragraph 25. You say
- 19 that Mr. Alford observed your line and you
- 20 say that an employee had recently been
- 21 transferred to me from other shifts run by
- 22 white supervisors.
- 23 What employee are you talking about?

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1 A. Mitchell Daniels.
2 Q. And Mitchell --
3 Daniels?
4 A. Uh-huh. (Positive response.)
5 Q. Mitchell Daniels worked for the first shift
6 and the second shift?
7 A. Yes.
8 Q. And then he worked for the third shift?
9 A. He worked for second shift first time, and
10 then he transferred from second shift to
11 first shift. That's when he come from
12 first shift to third shift.
13 Q. And were first shift and second shift
14 supervised by Billy Wayne Bedsole and Mike
15 Etheridge?
16 A. Yes.
17 Q. Why was Mr. --
18 Mr. Daniels; is that right?
19 A. Uh-huh. (Positive response.)
20 Q. Why was he transferred? Did he request a
21 transfer from those shifts?
22 A. He request a transfer. I think he signed a
23 bid sheet to come to third shift.

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1 Q. So Mr. Mitchell Daniels requested a
2 transfer to go from second shift to first
3 shift?
4 A. Yes.
5 Q. And then he requested a transfer to go from
6 first shift to third shift?
7 A. Yes. He had signed more bid sheets to go
8 back to second shift, but they never would
9 send him.
10 Q. After he had been on third shift, he tried
11 to bid out and transfer to second shift?
12 A. Signed several bid sheets to go to second
13 shift, but they never would send him back.
14 Q. Now, you say in paragraph 25 of your
15 affidavit, you say in the -- I'm looking at
16 the last three lines of paragraph 25. You
17 say, quote: This same employee had been
18 recently transferred to me from the other
19 shifts run by the two white supervisors.
20 This seemed to be more of an effort to hurt
21 my performance, closed quote.
22 Now, you just told me Mr. Daniels
23 requested a transfer to third shift; is

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1 that right?
2 A. Right.
3 Q. Tell me the basis for the allegation that
4 his requesting a transfer to your shift was
5 an effort to hurt your performance.
6 A. He had some kind of -- some kind of
7 sickness, I think, and he can't perform
8 like the rest of the people.
9 Q. And so you --
10 A. And they really didn't want him on the
11 machine neither.
12 Q. Who is they?
13 A. First and second shift. The managers, like
14 Bob Turner.
15 Q. He was a department manager?
16 A. Uh-huh. (Positive response.) Like Bob
17 Turner, the manager, he really didn't want
18 the guy on the machine because of some kind
19 of sickness he had. See, they really
20 didn't tell us what the sickness was. He
21 was on -- like on the slow side.
22 Q. Tell me how you believe this employee
23 requesting a transfer to work on your

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1 shift -- on the third shift was an effort
2 to hurt your performance. Do you believe
3 that that employee was trying to hurt your
4 performance?
5 MR. TIDWELL: Object to the form.
6 A. No.
7 Q. Who do you believe was trying to hurt your
8 performance?
9 A. By them -- you know, like he come there and
10 he want to go back to the other shift.
11 They wouldn't let him.
12 Q. Who wouldn't let him?
13 A. The manager.
14 Q. Who was the manager?
15 A. Bob Turner.
16 Q. So you think that Mr. Turner not
17 transferring this employee for a third time
18 was an effort by Mr. Turner to hurt your
19 performance?
20 A. It could.
21 MR. TIDWELL: Object to the form.
22 Q. It could be?
23 A. Yes.

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<p>1 Q. Do you believe it was?</p> <p>2 A. They put --</p> <p>3 MR. TIDWELL: Object to the frm.</p> <p>4 A. They put him on efficiency work.</p> <p>5 Q. Tell me what you mean.</p> <p>6 A. He had to make a percentage every night.</p> <p>7 Q. He had to do what?</p> <p>8 A. Make a percentage.</p> <p>9 Q. Right. And you believe he was not making</p> <p>10 his percentage?</p> <p>11 A. Like I say, he was on the slow side because</p> <p>12 of some kind of sickness he had.</p> <p>13 Q. Do you believe that that --</p> <p>14 A. That's why they didn't want him on the</p> <p>15 machine, because they thought he would get</p> <p>16 hurt.</p> <p>17 Q. Do you believe that that employee requested</p> <p>18 a transfer to third shift in an effort to</p> <p>19 hurt your performance?</p> <p>20 MR. TIDWELL: Object to the frm.</p> <p>21 A. No.</p> <p>22 Q. Look at paragraph 28 of your affidavit.</p> <p>23 You mention a March 11th write-up. Do you</p>	<p>1 Defendant's Exhibit 14 that's titled</p> <p>2 corrective action report?</p> <p>3 A. What he read to me that morning was</p> <p>4 something like, Claude -- I no longer can</p> <p>5 go along with Claude anymore as</p> <p>6 supervisor. That's what was on the thing</p> <p>7 that morning when I left. I don't know.</p> <p>8 Q. How do you think your signature got on</p> <p>9 Defendant's Exhibit 14?</p> <p>10 A. I don't know.</p> <p>11 Q. So are you telling me, Mr. Lee, that you --</p> <p>12 A. This is not what I read when I left there</p> <p>13 that morning.</p> <p>14 Q. You're telling me that Defendant's Exhibit</p> <p>15 14 that has your signature on it, that</p> <p>16 you've never seen this March 11th</p> <p>17 corrective action report?</p> <p>18 A. I never seen this right here. I never</p> <p>19 noticed this -- this writing was different,</p> <p>20 is different from what I read that morning</p> <p>21 when I left.</p> <p>22 Q. Do you see the writing that you contend</p> <p>23 that was on the document that morning?</p>
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<p>1 see that?</p> <p>2 A. Uh-huh. (Positive response.)</p> <p>3 (Defendant's Exhibit 14 was marked</p> <p>4 for identification.)</p> <p>5 Q. Let me show you what's been marked as</p> <p>6 Defendant's Exhibit 14. Is that the</p> <p>7 corrective action report that you're</p> <p>8 referring to in paragraph 28 as the</p> <p>9 write-up?</p> <p>10 A. Never seen this before. Only thing I seen</p> <p>11 is personnel notices.</p> <p>12 Q. Look at the bottom of Exhibit 14. Is that</p> <p>13 your signature on Defendant's Exhibit 14?</p> <p>14 A. Yes.</p> <p>15 Q. So you signed this document acknowledging</p> <p>16 that you had seen it; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. So you've seen a corrective action report;</p> <p>19 is that right?</p> <p>20 A. That's my signature, but still what I</p> <p>21 signed was personnel notices.</p> <p>22 Q. Well, Mr. Lee, how do you believe that your</p> <p>23 signature ended up on this page that is</p>	<p>1 A. No, not this -- what he read, what I read</p> <p>2 and what he read to me ...</p> <p>3 Q. It's not on here?</p> <p>4 A. Huh-uh. (Negative response.) It's not on</p> <p>5 here.</p> <p>6 Q. Was it in handwriting? Was it typewritten?</p> <p>7 A. What I'm thinking, it was typewritten.</p> <p>8 Q. You think it was typewritten?</p> <p>9 A. That morning, yeah. It wasn't -- it wasn't</p> <p>10 but a few lines, all that he read to me.</p> <p>11 And what I read was something like a</p> <p>12 personnel notice. Nothing with WestPoint</p> <p>13 Homes on there.</p> <p>14 Q. Tell me what you think you read that day.</p> <p>15 A. Only thing Mike Alford read me was, Claude</p> <p>16 no longer -- I no longer can go along with</p> <p>17 Claude as supervisor. I believe -- As of</p> <p>18 3-10-06, I removed Claude from his job.</p> <p>19 Q. That's what you believe --</p> <p>20 A. That's what they read to me that morning</p> <p>21 when I left.</p> <p>22 Q. And that's what you believe you read that</p> <p>23 morning?</p>

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1 A. That's what he read to me, too, Mike
2 Alford.
3 Q. And you believe that you read that that
4 morning?
5 A. That's right.
6 Q. And you believe you signed a document that
7 said that?
8 A. I signed a document. I had got to my car.
9 They called me back and told me to come
10 back and sign the paper. That's when I
11 went back in there and signed the paper.
12 Q. Mr. Lee, you contend you signed Defendant's
13 Exhibit 14 --
14 A. That morning.
15 Q. -- but that it said something different?
16 A. Said something different.
17 Q. So where it says on Defendant's Exhibit 14
18 performance/conduct description and it says
19 Claude has failed to aggressively implement
20 changes in production processes, associate
21 training and monitoring and communication,
22 these deficiencies have resulted in poor
23 job performance, you now contend you've

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1 never seen that before?
2 A. Huh-uh. (Negative response.) Not that
3 morning.
4 Q. I'm asking, have you ever seen that before?
5 A. Huh-uh. (Negative response.) Not this
6 right here.
7 Q. Never seen it?
8 A. Huh-uh. (Negative response.)
9 Q. Under disciplinary action taken, it says on
10 Defendant's Exhibit 14: Claude is
11 immediately removed from his current
12 position as supervisor in the packaging
13 department.
14 Do you contend you've ever seen that
15 before?
16 A. No, I haven't seen that before, not on this
17 kind of paper.
18 Q. On any kind of paper.
19 A. It had something like this -- similar to on
20 the personnel notice. It wasn't but two or
21 three lines all they read to me that
22 morning.
23 Q. Did you receive a copy of this personnel

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1 notice that you contend you signed that
2 morning?
3 A. Not that morning. Huh-uh. (Negative
4 response.)
5 Q. Ever?
6 A. No. This right here was similar to it,
7 what was on there that morning.
8 Q. What was similar?
9 A. This right here was similar to it, but this
10 right here --
11 Q. Tell me what this is.
12 MR. TIDWELL: Read to her what was
13 similar.
14 A. Claude is immediately removed from his
15 current position as supervisor in the
16 packing department, now, that was on there.
17 Q. That was on the --
18 A. Um-huh. (Positive response.)
19 Q. -- the other document you believe you
20 signed?
21 A. Uh-huh. (Positive response.)
22 Q. Yes?
23 A. But this right here wasn't that morning.

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1 Q. Tell me what you're referring to.
2 A. See, like the rest of it read -- as of
3 3-10, Claude is no longer a supervisor at
4 WestPoint. You're being separated at
5 WestPoint.
6 Q. You believe that's what the document you
7 saw on 3-11-06 said?
8 A. Uh-huh. (Positive response.)
9 Q. Yes?
10 A. Yes.
11 Q. And you believe you've never seen
12 Defendant's Exhibit 14?
13 A. No, just that part right here.
14 Q. Just the disciplinary action section?
15 A. Uh-huh. (Positive response.)
16 Q. And just your signature at the bottom?
17 A. Uh-huh. (Positive response.)
18 Q. Yes?
19 A. Yes.
20 Q. Go back to your affidavit --
21 A. And this paper right here, I never seen the
22 WestPoint Home paper.
23 Q. You've never seen WestPoint Home corrective

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<p>1 A. That's what he read to me, too, Mike</p> <p>2 Alford.</p> <p>3 Q. And you believe that you read that that</p> <p>4 morning?</p> <p>5 A. That's right.</p> <p>6 Q. And you believe you signed a document that</p> <p>7 said that?</p> <p>8 A. I signed a document. I had got to my car.</p> <p>9 They called me back and told me to come</p> <p>10 back and sign the paper. That's when I</p> <p>11 went back in there and signed the paper.</p> <p>12 Q. Mr. Lee, you contend you signed Defendant's</p> <p>13 Exhibit 14 --</p> <p>14 A. That morning.</p> <p>15 Q. -- but that it said something different?</p> <p>16 A. Said something different.</p> <p>17 Q. So where it says on Defendant's Exhibit 14</p> <p>18 performance/conduct description and it says</p> <p>19 Claude has failed to aggressively implement</p> <p>20 changes in production processes, associate</p> <p>21 training and monitoring and communication,</p> <p>22 these deficiencies have resulted in poor</p> <p>23 job performance, you now contend you've</p>	<p>1 notice that you contend you signed that</p> <p>2 morning?</p> <p>3 A. Not that morning. Huh-uh. (Negative</p> <p>4 response.)</p> <p>5 Q. Ever?</p> <p>6 A. No. This right here was similar to it,</p> <p>7 what was on there that morning.</p> <p>8 Q. What was similar?</p> <p>9 A. This right here was similar to it, but this</p> <p>10 right here --</p> <p>11 Q. Tell me what this is.</p> <p>12 MR. TIDWELL: Read to her what was</p> <p>13 similar.</p> <p>14 A. Claude is immediately removed from his</p> <p>15 current position as supervisor in the</p> <p>16 packing department, now, that was on there.</p> <p>17 Q. That was on the --</p> <p>18 A. Um-huh. (Positive response.)</p> <p>19 Q. -- the other document you believe you</p> <p>20 signed?</p> <p>21 A. Uh-huh. (Positive response.)</p> <p>22 Q. Yes?</p> <p>23 A. But this right here wasn't that morning.</p>
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<p>1 never seen that before?</p> <p>2 A. Huh-uh. (Negative response.) Not that</p> <p>3 morning.</p> <p>4 Q. I'm asking, have you ever seen that before?</p> <p>5 A. Huh-uh. (Negative response.) Not this</p> <p>6 right here.</p> <p>7 Q. Never seen it?</p> <p>8 A. Huh-uh. (Negative response.)</p> <p>9 Q. Under disciplinary action taken, it says on</p> <p>10 Defendant's Exhibit 14: Claude is</p> <p>11 immediately removed from his current</p> <p>12 position as supervisor in the packaging</p> <p>13 department.</p> <p>14 Do you contend you've ever seen that</p> <p>15 before?</p> <p>16 A. No, I haven't seen that before, not on this</p> <p>17 kind of paper.</p> <p>18 Q. On any kind of paper.</p> <p>19 A. It had something like this -- similar to on</p> <p>20 the personnel notice. It wasn't but two or</p> <p>21 three lines all they read to me that</p> <p>22 morning.</p> <p>23 Q. Did you receive a copy of this personnel</p>	<p>1 Q. Tell me what you're referring to.</p> <p>2 A. See, like the rest of it read -- as of</p> <p>3 3-10, Claude is no longer a supervisor at</p> <p>4 WestPoint. You're being separated at</p> <p>5 WestPoint.</p> <p>6 Q. You believe that's what the document you</p> <p>7 saw on 3-11-06 said?</p> <p>8 A. Uh-huh. (Positive response.)</p> <p>9 Q. Yes?</p> <p>10 A. Yes.</p> <p>11 Q. And you believe you've never seen</p> <p>12 Defendant's Exhibit 14?</p> <p>13 A. No, just that part right here.</p> <p>14 Q. Just the disciplinary action section?</p> <p>15 A. Uh-huh. (Positive response.)</p> <p>16 Q. And just your signature at the bottom?</p> <p>17 A. Uh-huh. (Positive response.)</p> <p>18 Q. Yes?</p> <p>19 A. Yes.</p> <p>20 Q. Go back to your affidavit --</p> <p>21 A. And this paper right here, I never seen the</p> <p>22 WestPoint Home paper.</p> <p>23 Q. You've never seen WestPoint Home corrective</p>

July 17, 2007

Deposition of Claude Gene Lee, Sr.

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1 action report?

2 A. No, nothing but personnel notice.

3 Q. Go back to your affidavit, please, and look

4 at paragraph 27. You say in a March 8th,

5 2006 write-up, that it stated, quote: If

6 not fully in control of his position as

7 supervisor in the packaging department

8 within two weeks, including proper

9 communication of progress with manager --

10 management, Claude could be immediately

11 removed from his current position as

12 supervisor. Do you see that?

13 A. Yes.

14 Q. I want you to take a look again at

15 Defendant's Exhibit 13. Do you see what

16 you quoted in paragraph 27 of your

17 affidavit on Defendant's Exhibit 13 under

18 corrective action plan in about the middle

19 of the page?

20 A. He told me I would go to second shift in

21 two weeks and that if I didn't make 100

22 percent efficiency that he would remove me

23 from my job, but he let me go in three

1 affidavit that we've just quoted, tell me

2 what you understood that to mean.

3 A. I don't know.

4 Q. Did you understand that to mean that

5 anytime within two weeks if you weren't

6 performing as your supervisor believed you

7 should, he could remove you?

8 MR. TIDWELL: Object to the form.

9 A. I don't know.

10 Q. All right. Look on that document where it

11 says follow-up conference date toward the

12 bottom just above your signature. Do you

13 remember seeing that?

14 A. No.

15 Q. Do you agree with me that it says follow-up

16 conference date, two weeks or less just

17 above your signature?

18 A. Yes.

19 Q. And you contend you've never seen that

20 before?

21 A. No.

22 Q. What did you understand that to mean, that

23 you had -- if you were not fully in control

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1 days. I never did make it to second shift.

2 Q. Mr. Lee, that's not my question. What I'm

3 asking you is, in paragraph 27 of your

4 affidavit, you quote from a March 8th, 2006

5 write-up. And what I'm asking you, is what

6 you quote in paragraph 27 of your

7 affidavit -- do you see that on Defendant's

8 Exhibit 13 under corrective action plan?

9 MR. TIDWELL: She's asking if

10 that's the same as this, those

11 sentences are the same as this

12 one.

13 A. Yes.

14 Q. So do you acknowledge receiving the

15 corrective action report dated March 8th,

16 2006 containing that sentence?

17 MR. TIDWELL: Object to the form.

18 A. I really don't know.

19 Q. What did you understand that to mean,

20 Mr. Lee, that sentence that we've just

21 talked about?

22 A. What do I understand about it?

23 Q. Yeah, that sentence in paragraph 27 of your

1 of your position as supervisor in the

2 packaging department within two weeks, you

3 could be immediately removed from your

4 current position as supervisor?

5 MR. TIDWELL: Object to the form.

6 A. Mike Alford told me that he was sending me

7 to second shift. If I didn't make 100

8 percent when I get to second shift, that he

9 could remove me.

10 Q. You now contend that Mike Alford told you

11 he was going to remove you from -- he was

12 going to move you to second shift?

13 A. Uh-huh. (Positive response.)

14 Q. Yes?

15 A. Yes.

16 Q. And then once you got to second shift, if

17 you weren't making 100 percent, then

18 you'd --

19 A. Um-huh. (Positive response.)

20 Q. -- be removed from your supervisory

21 position?

22 A. Yes.

23 Q. When did --

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1 A. But he let me go in three days.
2 Q. When do you contend he was going to move
3 you?
4 A. He was going to move -- make the change
5 March the 13th, that Monday.
6 Q. To move you to second shift?
7 A. Uh-huh. (Positive response.)
8 Q. Who was going to take over your shift?
9 A. The supervisor on second shift, Billy Wayne
10 Bedsole.
11 Q. Mr. Lee, wasn't it a pretty regular
12 practice at WestPoint that if an
13 employee -- a supervisor was out on leave
14 or on extended vacation or absent for some
15 reason, that they would move around the
16 shift supervisors to cover different
17 shifts?
18 MR. TIDWELL: Object to the form.
19 A. Most of the time it be the lead person.
20 Q. Would the supervisors ever work, say -- if
21 a second shift supervisor was out, wouldn't
22 they sometimes have, say, the first shift
23 supervisor cover first and second, work a

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1 12-hour shift? Do you remember that
2 happening?
3 A. I had to go to second shift a couple of
4 times, you know, just to fill in.
5 Q. To fill in?
6 A. Uh-huh. (Positive response.)
7 Q. Okay.
8 A. The lead person mostly worked over, like,
9 12 hours.
10 Q. But if the lead person wasn't available to
11 fill in, sometimes you or another
12 supervisor would do that; is that right?
13 A. Yes.
14 Q. Yes?
15 A. Yes.
16 Q. Go back to your affidavit and look at
17 paragraph 28. Tell me what write-up you're
18 referring to in that first sentence where
19 you say you were given two weeks to correct
20 these perceived deficiencies.
21 A. That's the write-up Mike Alford had wrote
22 for me to go to second shift. He was going
23 to give me two weeks to see can I make 100

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1 percent on second shift, efficiency.
2 Q. So you contend on March 11th, Mr. Alford
3 wrote you up --
4 A. Huh-uh. (Negative response.) March the
5 8th.
6 Q. All right. You contend that on March the
7 8th, Mr. Alford wrote you up and said I'm
8 going to move you to the second shift --
9 A. Um-huh. (Positive response.)
10 Q. -- and I'm going to give you two weeks to
11 make 100 percent?
12 A. On second shift.
13 Q. And you believe that that was a written
14 document?
15 A. He had something on paper. Uh-huh.
16 (Positive response.)
17 Q. And you signed it? You think you signed
18 it?
19 A. Uh-huh. (Positive response.)
20 Q. Is that a yes?
21 A. Yes.
22 Q. Did you receive a copy of it?
23 A. No.

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1 Q. Look at page nine of your affidavit. Look
2 at the rest of paragraph 28. You say:
3 This was further evidence of racial
4 discrimination since the white supervisors
5 were not under the same scrutiny and were
6 not relieved of their supervisory
7 positions, even though they were
8 underperforming and not meeting their
9 quotas.
10 Tell me what you mean. Tell me every
11 basis for that allegation that you have.
12 MR. TIDWELL: Object to the form.
13 A. I don't know. I don't know.
14 Q. So are you telling me you have no basis for
15 that allegation?
16 A. Just didn't give me a chance to go to
17 second shift. They let me --
18 MR. TIDWELL: She's talking about
19 why the white supervisors
20 weren't under the same
21 scrutiny as you were.
22 Q. Tell me what was -- you say in this
23 sentence, quote: This was further evidence

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1 of racial discrimination. What are you
 2 referring to there?
 3 A. Well, like December, they told me that all
 4 three of us got the same thing, and I don't
 5 know if they got the same thing or not.
 6 Q. So in paragraph 28, you're referring to the
 7 notice you got in December?
 8 A. And, like, the evaluation in January. It
 9 ain't the same thing what I turned in.
 10 Some of it had been whited out and all that
 11 stuff.
 12 Q. I don't understand what you're saying,
 13 Mr. Lee.
 14 A. It ain't the same thing.
 15 Q. What's not the same?
 16 A. My evaluation for the year review, a page
 17 missing from the December write-up. It's a
 18 lot of stuff been changed.
 19 Q. Tell me specifically what you contend has
 20 been changed.
 21 A. Well, my evaluation, you can tell --
 22 Q. Wait. Let's start there. What do you
 23 believe has been changed on your

1 Q. What else are you talking about there?
 2 Anything else?
 3 MR. TIDWELL: Read the whole
 4 section so you don't get a
 5 piece of it. Read all of 28
 6 so we can make sure we're on
 7 the same thing instead of just
 8 a piece of it.
 9 Q. Read the whole paragraph.
 10 Now that you've read the whole
 11 paragraph, tell me in those last couple of
 12 sentences, tell me every basis you have for
 13 the allegation that you make in that
 14 paragraph that says this was further
 15 evidence of racial discrimination since the
 16 white supervisors were not under the same
 17 scrutiny and were not relieved of their
 18 supervisory positions, even though they
 19 were underperforming and not meeting their
 20 quotas.
 21 A. They was writing me up when I was getting a
 22 hundred percent, and they didn't get
 23 nothing.

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1 evaluation?
 2 A. My performance review been changed.
 3 Q. What on your performance review has been
 4 changed?
 5 MR. TIDWELL: I think we've
 6 already kind of gone through
 7 it, but we'll do it again.
 8 A. You can look at it and tell on my
 9 performance review, you got -- you got two
 10 different handwritings on there, too.
 11 Ain't but supposed to be but one person's
 12 handwriting on there.
 13 Q. Mr. Lee, look at paragraph 28. Let's do
 14 this. Look at paragraph 28 of your
 15 affidavit. Are you telling me that in the
 16 sentence where you say this was further
 17 evidence of racial discrimination, that
 18 you're referring to the December personnel
 19 notice you received and the January 2006
 20 performance review you received?
 21 A. Uh-huh. (Positive response.)
 22 Q. Is that a yes?
 23 A. Yes.

1 Q. Who is they?
 2 A. The managers.
 3 Q. What managers?
 4 A. Mike -- Frank Majors and Mike Alford.
 5 Q. Anybody else?
 6 A. No.
 7 Q. So you contend that Frank Major and Mike
 8 Alford wrote you up for not meeting
 9 production quota?
 10 MR. TIDWELL: Object to the form.
 11 A. No.
 12 Q. What do you contend they wrote you up for?
 13 A. I don't know. I really don't know. If you
 14 making a hundred percent, the workers is
 15 working.
 16 Q. I understand that that's your contention.
 17 I'm asking you, what are you saying that
 18 Mike Alford and Frank Major wrote you up
 19 for?
 20 MR. TIDWELL: Object to the form.
 21 A. I don't know.
 22 Q. You don't know what they wrote you up for?
 23 MR. TIDWELL: Object to the form.

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1 A. No.
2 Q. Is that what you're saying?
3 A. I don't know.
4 Q. Look in the last sentence of that
5 paragraph. You say Alford and others were
6 not interested in giving me any time to
7 clear up their alleged concerns, but simply
8 were out to fire me. Do you see that?
9 A. Yes.
10 Q. Tell me what you mean -- every basis for
11 that allegation you have.
12 A. Look at the write-ups I got. It wasn't two
13 months. Look at all the write-ups.
14 Q. Look at what write-ups?
15 A. The write-ups I got.
16 Q. Tell me what ones you're talking about.
17 A. From December to March.
18 Q. And these are --
19 A. And, really, they didn't know me and I
20 didn't know them.
21 Q. Mr. Lee, the write-ups that you are
22 referring to, are those any of the
23 documents that we've looked at today?

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1 A. Some of them is.
2 Q. Tell me which ones.
3 A. The one in December.
4 Q. Tell me -- tell me what exhibit.
5 MR. TIDWELL: I think we've gone
6 through this, but we'll do it
7 again. We'll go exhibit by
8 exhibit.
9 MS. PATE: I just want to be sure
10 that we're clear on which ones
11 that we're referring to.
12 MR. TIDWELL: Exhibit 10 is
13 December. There's all the
14 write-ups that Kelly has
15 provided.
16 A. This write-up here in December, like I
17 said, they supposed to have been -- they
18 said they had already talked to first shift
19 and second shift supervisors, but I don't
20 know whether they got this or not.
21 Q. The first shift or second shift
22 supervisors --
23 A. Whether they got it or not. They said they

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1 got the same thing I got.
2 Q. Who?
3 A. Bob Turner, my manager.
4 Q. Okay.
5 A. And what -- this affidavit or whatever --
6 they ain't got but one write-up. That's in
7 February. What happened to the one in
8 December?
9 Q. When you say that Alford and others were
10 out to fire you, who are the others that
11 you're talking about?
12 A. Frank Major and Mike Alford about the
13 onliest ones that's left.
14 Q. So you contend that Mike Alford and Frank
15 Majors were out to fire you?
16 A. Yes.
17 Q. Do you agree with me, Mr. Lee, that you
18 were removed from your supervisory position
19 on the third shift on or about March 11th,
20 2006?
21 A. Yeah, they told me I was -- I was separated
22 from the company on 3-10, but I worked that
23 night.

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1 Q. That's not my question. Maybe I didn't ask
2 that well.
3 Do you agree with me that on or about
4 March 11th, you were removed from your
5 supervisory position as third shift
6 supervisor?
7 A. Yes.
8 (Defendant's Exhibit 15 was marked
9 for identification.)
10 Q. Take a look at Defendant's Exhibit 15 for
11 me. The top of this is titled personnel
12 notice dash job refusal. It's Bates
13 stamped Lee/WPH 009. Do you see where it
14 says job offered? About the middle of the
15 page.
16 A. Uh-huh. (Positive response.)
17 Q. It says set order puller.
18 A. Uh-huh. (Positive response.)
19 Q. Is that a yes?
20 A. What you mean? Was the job --
21 Q. I'm just asking do you see where I'm
22 talking about?
23 A. Yes.

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1 Q. Do you remember when you were removed from
2 your supervisory role that you were offered
3 the job of set order puller?
4 A. Just the way they offered it to me.
5 Q. That's not what I'm asking. I'm asking, do
6 you remember being offered the job of set
7 order puller?
8 A. They offered me three choices.
9 Q. Was one of those choices the job of set
10 order puller?
11 A. Yes, the third choice, what's on the paper.
12 Q. Did you refuse to sign this document that's
13 Defendant's Exhibit 15?
14 A. Yes.
15 Q. Why?
16 A. Because I couldn't do that job.
17 Q. You couldn't do the set order puller job?
18 A. Huh-uh. (Negative response.)
19 Q. Is that a no?
20 MR. TIDWELL: You have to speak
21 loud. Don't say huh-uh.
22 A. No.
23 Q. Did you begin training for the set order

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1 puller job?
2 A. I went out there that morning. They showed
3 me a film, and that was about it.
4 Q. And the set order puller job, that's
5 driving a forklift; is that right?
6 A. Forklift.
7 Q. Driving the forklift?
8 A. Right.
9 Q. And you rejected that job offer; is that
10 right?
11 MR. TIDWELL: Object to the form.
12 A. I had talked to them and told them that I
13 didn't think I could do that job. So
14 Mr. Murphy told me to go home and wait till
15 about -- that was on Monday, the 13th.
16 Come back by Wednesday and let them know
17 did I want that job. I told him I couldn't
18 do that job.
19 Q. So you turned --
20 A. He told me to sign the paper that I refused
21 the job. I told him I wasn't signing
22 anything. Then he said, I'm going to wait
23 till -- he said, I can't give you a -- the

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1 third choice --
2 The first choice up there was I'm going
3 to give you a lump sum vacation. He told
4 me I can't pay you a lump sum vacation.
5 Said only thing I can do is give you four
6 weeks. You enjoy your check for four weeks
7 and you come back out here and sign your
8 papers
9 Q. Mr. Lee, I want to get to all of those
10 things, but I want to just take it one at a
11 time if we can.
12 Do I understand you correctly that you
13 turned down the set order puller job; is
14 that right?
15 MR. TIDWELL: Object to the form.
16 He's already answered that.
17 A. Yes.
18 (Defendant's Exhibit 16 was marked
19 for identification.)
20 Q. Let me show you Defendant's Exhibit 16.
21 Whose handwriting is that?
22 A. At the top is going to be Brendt Murphy.
23 At the bottom is Mike Alford. It's where

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1 he wrote his phone number on there that
2 morning.
3 Q. So the items numbered one, two, and three
4 on Defendant's Exhibit 16, which is Bates
5 stamped From Lee 0026, items one, two and
6 three are in Brendt Murphy's handwriting?
7 A. Right.
8 Q. And the telephone numbers at the bottom are
9 in Mike Alford's handwriting?
10 A. Right.
11 Q. Let's look at those three items.
12 Summarizing those, the first one is
13 that you could leave and be paid through
14 March 15th and receive a check for your
15 four weeks unused vacation. Is that right
16 for the first one?
17 A. For the first one ...
18 MR. TIDWELL: Just this one right
19 here. What does that say?
20 A. Pay through 3-15-06, separated 3-10-06,
21 receive check for four weeks unassured
22 vacation.
23 Q. Unused vacation?

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<p>1 A. Uh-huh. (Positive response.)</p> <p>2 Q. Is that what that says?</p> <p>3 A. Uh-huh. (Positive response.)</p> <p>4 Q. So that was the first option you were</p> <p>5 given, that you could leave, be paid</p> <p>6 through March 15th and receive a check for</p> <p>7 your four weeks unused vacation; is that</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. Or, number two, you could leave and use up</p> <p>11 your vacation so that you would be paid</p> <p>12 through those four weeks that you had</p> <p>13 unused vacation time; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And then the last one is the one we've</p> <p>16 already talked about, that you could accept</p> <p>17 the set order puller job on the first shift</p> <p>18 to drive the forklift; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. And your choice was to refuse the set order</p> <p>21 puller job and, what?</p> <p>22 MR. TIDWELL: Object to the firm.</p> <p>23 Q. What of those three options, what did you</p>	<p>1 to go out there and meet employees what you</p> <p>2 working with, plus you're working up under</p> <p>3 the same supervision what done fired you.</p> <p>4 Q. Who do you believe was trying to embarrass</p> <p>5 or demean you?</p> <p>6 A. Frank and Mike Alford.</p> <p>7 Q. Look at paragraph 30 of your affidavit.</p> <p>8 You say: Two black females in the</p> <p>9 packaging department, Lottie Benson and</p> <p>10 Clara Thomas, were demoted.</p> <p>11 What shift were Lottie Benson and Clara</p> <p>12 Thomas on?</p> <p>13 A. Lottie was on second shift as a lead</p> <p>14 person, and Clara was a lead person on</p> <p>15 first shift.</p> <p>16 Q. Who do you contend demoted them?</p> <p>17 A. Mike Alford demoted Lottie the same time I</p> <p>18 did -- the same time he done me.</p> <p>19 Q. The same time you were removed from your</p> <p>20 supervisory role?</p> <p>21 A. Yeah, Lottie.</p> <p>22 Clara, they had stepped her down -- I</p> <p>23 reckon that was probably a month later, I</p>
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<p>1 choose?</p> <p>2 A. Well, I had choose a lump sum vacation</p> <p>3 check. When I went back out there, he told</p> <p>4 me he couldn't give me a lump sum vacation</p> <p>5 check and that he would give me a four</p> <p>6 weeks vacation -- I'll receive my paycheck</p> <p>7 still four weeks.</p> <p>8 Q. For four more weeks?</p> <p>9 A. Uh-huh. (Positive response.) Till April</p> <p>10 the 15th? April the 15th.</p> <p>11 Q. Go back to your affidavit. Look at</p> <p>12 paragraph 29. It's on page nine. Toward</p> <p>13 the bottom of paragraph 29, you say: These</p> <p>14 options were given to me in an attempt to</p> <p>15 embarrass and demean me.</p> <p>16 Are you referring to the three options</p> <p>17 that we just went over?</p> <p>18 A. Yes.</p> <p>19 Q. Tell me how those options that were offered</p> <p>20 to you were given to you to embarrass or</p> <p>21 demean you.</p> <p>22 A. Well, you go back out there on the floor</p> <p>23 for a lot less of pay, and then you've got</p>	<p>1 believe -- before.</p> <p>2 Q. Tell me what position they went from and</p> <p>3 to. If they were both lead people, where</p> <p>4 were they moved to?</p> <p>5 A. Lottie Benson was moved back on the floor</p> <p>6 on a setting machine running sets. Clara</p> <p>7 Thomas moved from supervisor to lead</p> <p>8 person, getting paid by the hour.</p> <p>9 Q. So Clara Thomas you contend was a</p> <p>10 supervisor?</p> <p>11 A. Yes, first shift.</p> <p>12 Q. Where was Billy Wayne Bedsde?</p> <p>13 A. He was still on second shift.</p> <p>14 Q. What about Mike Etheridge?</p> <p>15 A. He was on first shift with Clara.</p> <p>16 Q. So there were two supervisors?</p> <p>17 A. Yes. I was the onliest one supervisor on</p> <p>18 third shift.</p> <p>19 Q. Who was the other shift supervisor with</p> <p>20 Mike Etheridge?</p> <p>21 A. Who was the what?</p> <p>22 Q. I think you said there were two shift</p> <p>23 supervisors for the other two.</p>

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<p>1 A. Uh-huh. (Positive response.)</p> <p>2 Q. Who was with Mike Ethenidge?</p> <p>3 A. Clara Thomas.</p> <p>4 Q. Was she a lead person or a supervisor?</p> <p>5 A. They dropped her down to a lead person.</p> <p>6 Q. Flip over to paragraph 32 of your</p> <p>7 affidavit. In this paragraph, you say that</p> <p>8 there's a difference between a personnel</p> <p>9 notice and a pink slip which leads to</p> <p>10 termination.</p> <p>11 A. A personnel notice got a commendation, got</p> <p>12 miscellaneous -- it's got six things on it.</p> <p>13 Q. That's a personnel notice?</p> <p>14 A. Uh-huh. (Positive response.) Pink slip</p> <p>15 start with counseling. Like the first</p> <p>16 time, we'll write them up on, like, that</p> <p>17 paper -- personnel notice. If we think</p> <p>18 they need a miscellaneous the first time</p> <p>19 instead of give them a counseling, we'll</p> <p>20 write miscellaneous on the personnel</p> <p>21 notice.</p> <p>22 The next time, if they don't do</p> <p>23 whatever it is, we can write them up a</p>	<p>1 MR. TIDWELL: No, no. Just read</p> <p>2 it to yourself.</p> <p>3 A. Okay.</p> <p>4 Q. Now, do you contend that as supervisor of</p> <p>5 the third shift, you had no responsibility</p> <p>6 for the line scheduling?</p> <p>7 A. The schedule for the lines for the -- it's</p> <p>8 printed out. It's a printout on the</p> <p>9 computer.</p> <p>10 Q. I guess --</p> <p>11 A. They got people that schedule the stuff and</p> <p>12 they prints it out on -- it's a printout.</p> <p>13 Q. So do you contend that you had no</p> <p>14 responsibility for any of the scheduling on</p> <p>15 your shift?</p> <p>16 A. Not the schedule. Huh-uh. (Negative</p> <p>17 response.) Only thing I had was</p> <p>18 responsibility for the schedule to be run</p> <p>19 on the machines.</p> <p>20 Q. But you didn't have -- you contend that you</p> <p>21 did not have any responsibility for the</p> <p>22 actual timing, the scheduling of it?</p> <p>23 A. Huh-uh. (Negative response.)</p>
Page 134	Page 136
<p>1 counseling. After a counseling, you go to</p> <p>2 three warnings. Your second warning, we'll</p> <p>3 give you a final notice.</p> <p>4 Q. And those are the pink slips that you're</p> <p>5 talking about?</p> <p>6 A. Right.</p> <p>7 Q. Mr. Lee, isn't it the case that pink slips</p> <p>8 are used for hourly employees?</p> <p>9 MR. TIDWELL: Object to the form.</p> <p>10 A. I really don't know.</p> <p>11 Q. Well, how did you use them?</p> <p>12 A. Yeah, I used them for hourly employees.</p> <p>13 Q. Isn't it the case that pink slips are not</p> <p>14 used for salaried employees?</p> <p>15 A. I really don't know. They never did tell</p> <p>16 us that.</p> <p>17 Q. Look at paragraph 35 of your affidavit on</p> <p>18 the next page. Read over that for me and</p> <p>19 then I've got a question to ask you.</p> <p>20 A. Do you want me to read this right here?</p> <p>21 Q. Yeah, just read that to yourself so I can</p> <p>22 ask you a question about it.</p> <p>23 A. There is some statement --</p>	<p>1 Q. Was that a no?</p> <p>2 A. No.</p> <p>3 Q. Look on the last page of your affidavit,</p> <p>4 paragraph 39. You say that you filed an</p> <p>5 EEOC charge of race and age discrimination</p> <p>6 based on being harassed, treated unfairly,</p> <p>7 and finally being terminated from my</p> <p>8 employment.</p> <p>9 You don't contend now that you were</p> <p>10 discriminated against on the basis of your</p> <p>11 age, do you?</p> <p>12 A. I just think I was discriminated against</p> <p>13 because I'm black.</p> <p>14 Q. Not because of your age; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. So that I'm clear, you don't contend that</p> <p>17 you were discriminated against or harassed</p> <p>18 in any other manner other than in relation</p> <p>19 to your removal from your supervisory</p> <p>20 position; is that right?</p> <p>21 MR. TIDWELL: Object to the form.</p> <p>22 A. I don't know.</p> <p>23 Q. You don't know?</p>

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1 A. I don't know.
2 Q. Tell me how you contend that you were
3 discriminated against or harassed.
4 MR. TIDWELL: Object to the form.
5 We've already been through it.
6 MS. PATE: Well, he says he
7 doesn't know.
8 A. I don't know.
9 Q. In paragraph 40 of your affidavit, you say
10 that the actions taken were devastating to
11 you and your family and that it's extremely
12 difficult to handle. Tell me what you mean
13 by this.
14 A. My wife had to carry the load ...
15 MR. TIDWELL: That's all right.
16 Just tell them what you mean.
17 A. It was hard for me to find a job. It took
18 me ten months to find a job, and she had to
19 carry the load. Got behind on the bills.
20 Q. Anything else you think I ought to know
21 about that? Anything else you want to tell
22 me about that?
23 A. I went through depression. Had to go

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1 through depression.
2 Q. Did you see anybody for that?
3 A. I saw the psychiatrist and saw the
4 psychologist. The psychologist helped me a
5 lot.
6 Q. What's that person's name?
7 A. Let me see do I have his card.
8 The psychiatrist -- the psychiatrist
9 gave me some medicine.
10 Q. I'm sorry?
11 A. The psychiatrist gave me some medicine to
12 take.
13 Q. The psychiatrist you saw is J. Chris
14 Strunk, S-T-R-U-N-K, at Wiregrass Wellness
15 Center; is that right?
16 A. Yes.
17 Q. And his address is 256 Honeysuckle Road,
18 Suite 20, Dothan, Alabama 36305.
19 Was the psychologist you saw Robert J.
20 Nolan? Robert J. Nolan, is he the only
21 psychologist you saw at the Child and
22 Family Services?
23 A. Yes, he's the only one talked to me.

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1 Q. His address is 100 Westside Drive, Dothan,
2 Alabama 36303. Okay.
3 Who did you see first?
4 A. Psychologist.
5 Q. That's Robert J. Nolan?
6 A. Uh-huh. (Positive response.) He
7 transferred me to the psychiatrist.
8 Q. I want to talk about that.
9 A. Because he didn't give medicine.
10 Q. Right.
11 (Defendant's Exhibit 18 was marked
12 for identification.)
13 Q. Let me show you what's been marked as
14 Defendant's Exhibit 18. This is a
15 document -- it's Bates stamped From Lee
16 1037. It says psychological consultation
17 at the top. It's dated July 7th, 2006.
18 Is that the date that you saw Robert J.
19 Nolan?
20 A. Yes.
21 Q. And it says referral, that Mr. Lee is
22 referred for psychological services for,
23 quote, nervous breakdown.

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1 Who referred you to Robert J. Nolan?
2 A. I looked in the phone book and called it.
3 Q. No one in particular referred you to him?
4 A. No.
5 Q. What sorts of symptoms were you having?
6 A. I stayed at the house and wasn't going
7 nowhere, just at the house all day. And I
8 went to the psychiatrist. He told me to
9 get out of the house. If I don't get out
10 of the house, he was going to get me some
11 kind of services, make me do it.
12 Q. At the time that you decided that you
13 needed to go see Robert J. Nolan, were you
14 having crying spells?
15 A. That, too, but I hid it from my wife, my
16 family.
17 Q. And about how often was that happening?
18 A. About once or twice a day. I was at home
19 by myself anyway.
20 Q. Okay.
21 A. I really didn't want to talk about it, but
22 when I started talking to Dr. Nolan, he
23 really helped me a lot.

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1 Q. It's important, Mr. Lee -- I know that this
2 is hard for you, and I understand that, but
3 it's important for me to understand all of
4 the things that were going on so that I
5 understand what was happening when you went
6 to Dr. Nolan.
7 Were you having at that time feelings
8 of sadness?
9 A. Just depressed.
10 Q. Okay. All the time?
11 A. Yes.
12 Q. Were you losing sleep?
13 A. Yes. He give me something to sleep, where
14 I could sleep.
15 Q. How long were you losing sleep?
16 A. A long time.
17 Q. A long time?
18 A. (Witness nods head up and down.)
19 Q. Are we talking days?
20 A. Nights. Nights mostly.
21 Q. Several nights in a row or one night?
22 A. About every night.
23 Q. Every night?

1 intake form, anything like that?
2 A. No, I don't think so. He puts everything
3 on the computer.
4 Q. When you met with him, was he taking notes?
5 A. Yeah, on the computer. He writes down
6 everything you say on the computer.
7 Q. Look at the second page of that Defendant's
8 Exhibit 18. It says that the patient is
9 recommended to seek psychiatric services
10 and has been given the name.
11 Is Chris Strunk the name that Dr. Nolan
12 gave you?
13 A. Yes.
14 Q. Did you see him?
15 A. Yes.
16 Q. Tell me when you saw Dr. Strunk.
17 A. It was in July, I think a week after I saw
18 the psychologist, the next week.
19 Q. Did you see him more than once?
20 A. He first had me come in every week. Well,
21 I'd see both of them every week. I think
22 that went on about a month and a half,
23 something like that. And then they told me

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1 A. (Witness nods head up and down.)
2 Q. Were you sleeping at all?
3 A. Not much.
4 Q. How about your appetite?
5 A. I didn't have no bad appetite.
6 Q. So you were eating okay?
7 A. Eating okay.
8 Q. What about -- Did you have panic attacks?
9 A. Didn't have no panic.
10 Q. Did you ever think of or attempt suicide?
11 A. No.
12 Q. All right. When you went to see Mr. Nolan,
13 what did you do during your visit with him?
14 A. He just talked about -- told me about
15 depressed -- about being depressed and
16 stuff and telling me what to do for not
17 being depressed.
18 Q. Tell me what he told you to do
19 A. He just said go fishing, do something.
20 Don't sit at the house, get something that
21 you can do to get stuff off your mind.
22 Q. When you went to see Dr. Nolan, did you
23 fill out any sort of questionnaire or

1 to start coming back every two weeks.
2 Q. So you saw both Dr. Nolan and Dr. Strunk
3 for every week for a period of time?
4 A. Uh-huh. (Positive response.)
5 Q. Is that a yes?
6 A. Yes.
7 Q. And then you saw both those doctors every
8 other week for a period of time?
9 A. Uh-huh. (Positive response.) Then I
10 started going every month.
11 Q. Every month.
12 A. Uh-huh. (Positive response.)
13 Q. On the second page of that document from
14 Dr. Nolan, it says that you were scheduled
15 to return on July 28th. And by that time,
16 you were supposed to have seen a physician,
17 probably a psychiatrist.
18 A. Uh-huh. (Positive response.)
19 Q. Did you do that?
20 A. Yes.
21 Q. How long did you -- are you still seeing
22 those doctors?
23 A. No.

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1 Q. Tell me when you stopped seeing them.
2 A. November.
3 Q. Both of them?
4 A. Uh-huh. (Positive response.)
5 Q. When you went to see Dr. Strunk, did you
6 fill out any sort of questionnaire or
7 intake form there?
8 A. Not no questionnaire.
9 Q. Did he perform any sort of tests?
10 A. He just asked questions.
11 Q. He didn't do anything like hypnosis or
12 any --
13 A. Huh-uh. (Negative response.)
14 Q. You mentioned that he had prescribed
15 medication for you. Tell me what he
16 prescribed.
17 A. I can't remember the name of it. I can't
18 remember the name of it.
19 Q. Was it just one prescription he gave you?
20 A. I had it refilled every month.
21 Q. And how long did you take it?
22 A. About six months.
23 Q. Do you remember about from what month to

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1 what month, what six-month period?
2 A. From July -- July to December, I think,
3 either December or November.
4 Q. You just can't remember the name of it?
5 A. Huh-uh. (Negative response.)
6 Q. What did he prescribe it to you for?
7 A. Depressed, mental depressed.
8 Q. And did it help?
9 A. Yes.
10 Q. Do you consider yourself now back to
11 normal?
12 A. Yes.
13 Q. Tell me the last time you saw both of those
14 doctors.
15 A. I think it had to be like sometime in
16 November the last time I seen them.
17 Q. So in November of 2006, you believe you saw
18 both Dr. Nolan and Dr. Strunk?
19 A. Uh-huh. (Positive response.) The last
20 time.
21 Q. You're not on any sort of antidepressant
22 now, are you?
23 A. No.

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1 Q. Is that a no?
2 A. No.
3 Q. During the time that you were seeing those
4 doctors, was anyone in your family having
5 any sorts of health problems?
6 A. No.
7 Q. Anybody in your immediate family or your
8 close family having financial trouble?
9 A. No.
10 Q. When you went to see those doctors, did
11 they take down your family and medical
12 history and background?
13 A. I think they asked me about my mom and
14 daddy.
15 Q. Did either of your parents suffer from
16 anxiety or depression?
17 A. No.
18 Q. When you saw those doctors for the last
19 time in November, did they make any sorts
20 of recommendations to you?
21 A. Only thing they said, if anything changed
22 that you can't come to see us, let them
23 know.

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1 Q. Anything changed?
2 A. I got a job. That's the reason I didn't go
3 back to see them.
4 MS. PATE: Now would be a good
5 time to take a break if you
6 want it. If not, we can press
7 on.
8 MR. TIDWELL: That's fine. How
9 much longer have you got?
10 (Off-the-record discussion.)
11 MR. TIDWELL: That's fine. We can
12 take a break.
13 (Brief recess was taken.)
14 (Defendant's Exhibit 17 was marked
15 for identification.)
16 Q. Mr. Lee, I want to show you what's been
17 marked as Defendant's Exhibit 17, and it is
18 Bates stamped From Lee 0001 through 0013.
19 Did you create this document?
20 A. Yes.
21 Q. When did you create it?
22 A. Sometime in March.
23 Q. In March 2006?

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<p>1 A. Uh-huh. (Positive response.)</p> <p>2 Q. You created the whole thing then?</p> <p>3 A. Yes.</p> <p>4 Q. Did you create it for any particular</p> <p>5 purpose?</p> <p>6 A. To let the lawyer know.</p> <p>7 Q. Did you create it for a lawyer?</p> <p>8 A. Yes.</p> <p>9 Q. And who was that?</p> <p>10 A. Russ Goodman.</p> <p>11 Q. Look at the last page of this exhibit.</p> <p>12 It's Bates stamped From Lee 0013. It looks</p> <p>13 like a fax transmission verification report</p> <p>14 showing a fax on 6-30-2007. Whose fax</p> <p>15 number is 278-3430?</p> <p>16 MR. TIDWELL: Right here.</p> <p>17 A. That's probably my daughter.</p> <p>18 Q. That's your daughter?</p> <p>19 A. Uh-huh. (Positive response.)</p> <p>20 Q. Did you fax it to your daughter?</p> <p>21 A. Huh-uh. (Negative response.) She probably</p> <p>22 faxed it from her machine.</p> <p>23 Q. She faxed it from her machine?</p>	<p>1 MS. PATE: If he gets them, we'd</p> <p>2 like to see them.</p> <p>3 MR. TIDWELL: We'll give them to</p> <p>4 you.</p> <p>5 Q. If you'll check all your records and check</p> <p>6 with your daughter, too.</p> <p>7 A. Okay.</p> <p>8 Q. The first thing I want to do is look with</p> <p>9 me at the first -- let's see. Bates</p> <p>10 numbered From Lee 002 through 004 -- excuse</p> <p>11 me, through 005. And compare that with the</p> <p>12 last four pages before the verification</p> <p>13 report. That's Bates stamped From Lee 009</p> <p>14 through 0012.</p> <p>15 Here is my question. Looking at those</p> <p>16 pages, it looks like to me that the</p> <p>17 allegations contained in Bates stamped 0002</p> <p>18 through 005 are the same allegations</p> <p>19 verbatim as appear in the pages Bates</p> <p>20 stamped From Lee 009 through 0012 and that</p> <p>21 the only difference is the headings. Take</p> <p>22 a moment and look at them.</p> <p>23 (Brief interruption.)</p>
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<p>1 A. Uh-huh. (Positive response.)</p> <p>2 Q. To who?</p> <p>3 A. To me.</p> <p>4 Q. And which daughter is this?</p> <p>5 A. My oldest daughter.</p> <p>6 Q. What's her name?</p> <p>7 A. Tamela.</p> <p>8 Q. Is she the one in Atlanta?</p> <p>9 A. No.</p> <p>10 Q. She's in Headland?</p> <p>11 A. Uh-huh. (Positive response.)</p> <p>12 Q. And she had it on her computer?</p> <p>13 A. No. I had written it out. She typed it</p> <p>14 for me.</p> <p>15 Q. You had handwritten --</p> <p>16 A. Uh-huh. (Positive response.)</p> <p>17 Q. Do you still have those handwritten notes?</p> <p>18 A. I really don't know.</p> <p>19 Q. Can you check and see if you have them?</p> <p>20 A. Okay.</p> <p>21 Q. And if you have them, give them to your</p> <p>22 lawyer?</p> <p>23 A. Okay.</p>	<p>1 MR. TIDWELL: Did you follow what</p> <p>2 she was asking you, Claude?</p> <p>3 She's asking if these are the</p> <p>4 exact same.</p> <p>5 Q. I want to know if the allegations are</p> <p>6 exactly the same and that the only</p> <p>7 difference between those two sections of</p> <p>8 this exhibit are the headings.</p> <p>9 A. It's the same.</p> <p>10 Q. Do you know -- well, tell me what is the</p> <p>11 significance -- or what's the difference</p> <p>12 between the headings. What does first</p> <p>13 miscellaneous notice mean as compared to</p> <p>14 first write-up? Does it mean anything</p> <p>15 different to you?</p> <p>16 A. It's not anything different.</p> <p>17 Q. Do you know why there were two documents</p> <p>18 created with different headings? Any</p> <p>19 reason?</p> <p>20 A. It's just stating, like -- the personnel</p> <p>21 notice mostly is a miscellaneous anyway.</p> <p>22 Q. So personnel notice, miscellaneous notice</p> <p>23 are used interchangeably?</p>

<p style="text-align: right;">Page 153</p> <p>1 A. Uh-huh. (Positive response.)</p> <p>2 Q. Is that a yes?</p> <p>3 A. Yes.</p> <p>4 Q. Personnel notice is the same thing as a</p> <p>5 miscellaneous notice?</p> <p>6 A. Yes.</p> <p>7 Q. There's nothing different in your mind from</p> <p>8 a miscellaneous notice or a write-up as you</p> <p>9 have the headings in the second part?</p> <p>10 A. Uh-huh. (Positive response.)</p> <p>11 Q. Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Fair enough. That will save us some time.</p> <p>14 Look with me at the first page of</p> <p>15 Defendant's Exhibit 17, and that's Bates</p> <p>16 stamped From Lee0001. In the first</p> <p>17 paragraph, you say: Billy Bedsole, who was</p> <p>18 the second shift supervisor, was suspended</p> <p>19 from coming to work in February. It was</p> <p>20 rumored that he had been reprimanded</p> <p>21 several times about his work habits.</p> <p>22 Are you talking about February 2006?</p> <p>23 A. Yes.</p>	<p style="text-align: right;">Page 155</p> <p>1 Q. What do you mean he ran into the plant</p> <p>2 manager?</p> <p>3 A. Because the plant manager asked what was he</p> <p>4 doing over there.</p> <p>5 Q. Anything else about his work habits?</p> <p>6 A. His shift when I come in every night is not</p> <p>7 to -- everything is in a mess. And one</p> <p>8 thing, when you come in every night, if he</p> <p>9 leave me like that, that mean I got -- it's</p> <p>10 on me.</p> <p>11 And, see, he tell the manager -- the</p> <p>12 way he left it that morning, he said, if</p> <p>13 you don't straighten it out when you come</p> <p>14 in, before he leave -- but ain't no way he</p> <p>15 can straighten it out, that mess, before he</p> <p>16 leave. And they still say it's mine.</p> <p>17 Q. Look with me in the second paragraph of</p> <p>18 that same page. You say: Each time I got</p> <p>19 a miscellaneous notice, I was told that it</p> <p>20 was just a personnel notice.</p> <p>21 And we agree that -- or you've told me</p> <p>22 that those are the same thing. Personnel</p> <p>23 notice and miscellaneous notice are the</p>
<p style="text-align: right;">Page 154</p> <p>1 Q. Who do you contend suspended Mr. Bedsole?</p> <p>2 A. He had trouble with the plant manager.</p> <p>3 Q. And who was that?</p> <p>4 A. He was new, too, but I really didn't know</p> <p>5 his name. I've got it at the house.</p> <p>6 Q. Is it the plant manager who you believe</p> <p>7 suspended Mr. Bedsole?</p> <p>8 A. Yes, the one he had that --</p> <p>9 Q. Tell me what you mean. You say it was</p> <p>10 rumored that he had been reprimanded about</p> <p>11 his work habits. What did you understand</p> <p>12 about his work habits?</p> <p>13 A. What they had told him, you know -- they</p> <p>14 had told him he need to stay in the</p> <p>15 department, and he was out on the other</p> <p>16 side -- another department.</p> <p>17 Q. You're saying he should have -- he was told</p> <p>18 to stay in the packaging department?</p> <p>19 A. Uh-huh. (Positive response.)</p> <p>20 Q. Is that a yes?</p> <p>21 A. Yes.</p> <p>22 Q. And he was in another department?</p> <p>23 A. When he run into the plant manager.</p>	<p style="text-align: right;">Page 156</p> <p>1 same; is that right?</p> <p>2 A. It's on the same paper.</p> <p>3 Q. So, like, is a miscellaneous notice company</p> <p>4 lingo for personnel notice? Does it mean</p> <p>5 the same thing?</p> <p>6 A. It's a personnel notice that you can put in</p> <p>7 the file. And if you go back -- well, like</p> <p>8 if you go back and write -- see, you can't</p> <p>9 write two miscellaneous on a person. If</p> <p>10 you write one this week, you can't go back</p> <p>11 and write another miscellaneous. You've</p> <p>12 got to write a counsel.</p> <p>13 Q. Okay. I understand what you're saying.</p> <p>14 You say: I was even told that they had to</p> <p>15 do things like this because the new</p> <p>16 ownership told them that it was mandatory</p> <p>17 for them to do it. Tell me what you are</p> <p>18 referring to there.</p> <p>19 A. Onliest thing I can tell you about that</p> <p>20 is -- let me see. That's because when new</p> <p>21 ownership come in, they needed stuff on</p> <p>22 paper.</p> <p>23 Q. They needed what?</p>

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<p>1 A. They needed paperwork.</p> <p>2 Q. What do you mean they needed paperwork?</p> <p>3 A. You know, saying that you going to do the</p> <p>4 job better than you was doing it.</p> <p>5 Q. So when new management came in, they</p> <p>6 reviewed everybody's performance? Is that</p> <p>7 what you mean?</p> <p>8 A. Uh-huh. (Positive response.)</p> <p>9 Q. Yes?</p> <p>10 A. Talked to everybody. Supposed to have been</p> <p>11 talking to all the supervisors, all three</p> <p>12 shifts.</p> <p>13 Q. And so when new management came in, they</p> <p>14 talked with everybody --</p> <p>15 A. Said they needed something on paper.</p> <p>16 Q. So they wanted to review your performance</p> <p>17 on paper; is that right?</p> <p>18 A. Yeah, what they talked to you about, they</p> <p>19 needed it on paper.</p> <p>20 Q. In that same paragraph, you say: I got a</p> <p>21 miscellaneous notice stating that I was not</p> <p>22 being efficient. It's in the second</p> <p>23 paragraph of that same page. Tell me what</p>	<p>1 A. Uh-huh. (Positive response.)</p> <p>2 Q. Is that right?</p> <p>3 A. Yes. That's it.</p> <p>4 Q. The bottom of this document, the first</p> <p>5 page, you say -- I'm looking at Defendant's</p> <p>6 Exhibit 17. In February 2006, I was told</p> <p>7 by Clara Thomas who at the time was the</p> <p>8 first shift supervisor was offered my job</p> <p>9 as third shift supervisor ...</p> <p>10 Do you see that?</p> <p>11 A. Uh-huh. (Positive response.)</p> <p>12 Q. Who told you that?</p> <p>13 A. She did.</p> <p>14 Q. Clara Thomas told you?</p> <p>15 A. Uh-huh. (Positive response.)</p> <p>16 Q. What's Clara Thomas's race?</p> <p>17 A. Black.</p> <p>18 Q. And she --</p> <p>19 A. She said she was -- I think that was</p> <p>20 another choice they had give her when they</p> <p>21 stepped her down to a lead person. See,</p> <p>22 they said nothing to me at all. She the</p> <p>23 one that was saying it, you know, in the</p>
Page 158	Page 160
<p>1 notice you're referring to.</p> <p>2 A. The first. The first write-up when he --</p> <p>3 MR. TIDWELL: What's the date of</p> <p>4 it?</p> <p>5 THE WITNESS: The 16th, December</p> <p>6 16th.</p> <p>7 Q. You're talking about a December --</p> <p>8 A. Like I said, it was two pages. See, that's</p> <p>9 what I remember.</p> <p>10 Q. Let me just make sure that I understand</p> <p>11 what you're talking about. That sentence</p> <p>12 that I just read, I got a miscellaneous</p> <p>13 notice stating that I was not being</p> <p>14 efficient, there you're referring to the</p> <p>15 December 2006 notice?</p> <p>16 A. Uh-huh. (Positive response.)</p> <p>17 MR. TIDWELL: 2005.</p> <p>18 Q. 2005.</p> <p>19 MS. PATE: Thank you, Jay.</p> <p>20 Q. And who wrote that?</p> <p>21 A. Bob Turner and Brendt Murphy.</p> <p>22 Q. That's the one that we looked at that was</p> <p>23 Defendant's Exhibit 10?</p>	<p>1 office in there.</p> <p>2 Q. I'm sorry?</p> <p>3 A. She the one that was saying it in the</p> <p>4 office in there where we was. She was</p> <p>5 offered my job and said they give her a day</p> <p>6 to go home and ask her husband could she</p> <p>7 take that third shift job or go back on the</p> <p>8 floor as a lead person -- step out as a</p> <p>9 lead person from a supervisor.</p> <p>10 Q. What position was she in?</p> <p>11 A. She was a supervisor.</p> <p>12 Q. Of what shift?</p> <p>13 A. First shift.</p> <p>14 Q. So you're telling me that Clara said she</p> <p>15 was offered to step down on the first</p> <p>16 shift, be a lead person on the first</p> <p>17 shift --</p> <p>18 A. Huh-uh. (Negative response.) Step down as</p> <p>19 a supervisor.</p> <p>20 Q. Step down from supervisor to be a lead</p> <p>21 person?</p> <p>22 A. Uh-huh. (Positive response.)</p> <p>23 Q. Is that a yes?</p>

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1 A. She said she had a choice to come to third
2 shift or step down and be a lead person.
3 Q. You're telling me instead of taking a
4 supervisor role, she chose to step down and
5 be a lead person?
6 A. She said her husband didn't want her to be
7 on third shift. But they didn't say
8 anything to me about it at all. That's
9 what she said. But I haven't heard nothing
10 about it. They didn't tell me nothing
11 about she was taking my place or nothing.
12 She the one that said that in the office.
13 Q. Did she tell you who told her that?
14 A. She said that's a choice that they had give
15 her.
16 Q. Who? Who had given her that?
17 A. I don't know was it Bob or Frank. I don't
18 know which one. I think Bob Turner, I
19 believe.
20 Q. Would it be whoever the department head was
21 at that time in February 2006?
22 A. Yes.
23 Q. Flip over to the next page, Bates stamped

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1 From Lee 0002, under the heading first
2 miscellaneous notice. At the end you say
3 that Bob Turner resigned, quote, due to him
4 not wanting to do the things that was
5 wrong.
6 Tell me what you're talking about
7 there.
8 A. He was really under a whole lot of stress.
9 And then the way he talked, the plant
10 manager stayed on him a lot.
11 Q. Who was the plant manager?
12 A. I can't think of his name.
13 Q. Okay. What do you mean that he was
14 doing -- that he did not want to do things
15 wrong?
16 A. They kept -- I think they kept pushing him
17 about percentage and efficiency, you know.
18 Q. Do you contend that he was being forced to
19 do something that was -- that he shouldn't
20 have been doing?
21 MR. TIDWELL: Object to the form.
22 A. I really don't know.
23 Q. You say before he resigned as head manager,

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1 he put in my yearly review files that I
2 could be -- that I could be a head
3 manager. Do you see that?
4 A. Yes.
5 Q. Now, isn't it true that he didn't put that
6 in your review file, that that -- that you
7 put that down as a goal of yours? Isn't
8 that true?
9 MR. TIDWELL: Object to the form.
10 Q. Did you understand my question?
11 A. I understand.
12 Q. Okay.
13 A. He had put some kind of comment, and I had
14 put my goals down there.
15 Q. Do you contend that he put down in a
16 comment on your review -- yearly reviews
17 that you could be a head manager?
18 A. He put it down on one of them.
19 Q. What one?
20 A. I don't know what year it was, but he put
21 it down. Either 2004 or five one. I think
22 2004, it was on it.
23 Q. Look down under the heading second

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1 miscellaneous notice. Second line, you
2 say: I was wrongfully given a personnel
3 notice.
4 What personnel notice are you referring
5 to there?
6 MR. TIDWELL: She's asking what
7 you're referring to. What's
8 this second miscellaneous
9 notice you're referring to?
10 Q. Look in the second line of that paragraph.
11 You say: I was wrongfully given a
12 personnel notice. I want to know what
13 notice you're talking about.
14 A. Oh, that's when I had made 100 percent and
15 he wrote me up still.
16 Q. Who?
17 A. Frank Major.
18 Q. Have you seen the write-up that Frank gave
19 you today?
20 A. He got one on the 16th, but it's not what
21 I --
22 Q. It's not the one we're talking about here?
23 A. It's not the one he told me about taking

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1 care of my lines.
 2 Q. Okay.
 3 A. It's not the same thing he had read to me.
 4 Q. Towards the end of that paragraph, you
 5 say: I was still written up and being
 6 continuous -- being harassed and treated
 7 unfairly due to I'm the only black
 8 supervisor in my department.
 9 Do you contend that Frank Major was
 10 harassing you and treating you unfairly
 11 because you were the only black supervisor?
 12 A. Like I said, Frank really didn't do
 13 anything -- let's see. When I got the
 14 evaluation, the evaluation looked good.
 15 But when I got the write-up when I made 100
 16 percent, he still wrote me up for about not
 17 taking care of my lines.
 18 Q. Here is my question. Do you contend if --
 19 do you contend that Frank Major harassed or
 20 discriminated against you because of your
 21 race?
 22 A. I don't know.
 23 Q. In the next sentence, you say: I was

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1 written up and lied on, saying that my
 2 workers cannot do their jobs. If I am not
 3 efficient by keeping their lines constantly
 4 operating ... do you see that?
 5 A. Uh-huh. (Positive response.)
 6 Q. Who do you contend -- you say lied on.
 7 Tell me what that means.
 8 A. My workers were working. If he wasn't --
 9 they weren't working, you could have 40
 10 percent. You wouldn't have 100 percent.
 11 Q. Who do you contend lied?
 12 A. Frank and Mike Alford.
 13 Q. And what did they lie about?
 14 A. About how I wasn't doing my job, which I
 15 was. If I wasn't doing my job, the workers
 16 wouldn't be making 100 percent.
 17 Q. You disagree with their criticism of your
 18 job performance?
 19 A. That's right.
 20 Q. Flip over to the next page, From Lee 0003.
 21 About four lines down, you say: Frank
 22 Major accepted a higher position with the
 23 company. Is that true?

1 A. He went to personnel.
 2 Q. Was that a promotion for him?
 3 A. I really don't know.
 4 Q. Well, did you believe it was a higher
 5 position?
 6 MR. TIDWELL: Object to the form.
 7 A. I don't know.
 8 Q. When you wrote Frank Major accepted a
 9 higher position with the company, what did
 10 you mean?
 11 A. I really don't know.
 12 Q. Okay. Towards the end of that paragraph,
 13 you say: Mike Alford started harassing
 14 using profanity to all of the employees,
 15 including myself, and boasting about his
 16 unprofessional behavior ...
 17 Tell me what you mean.
 18 MR. TIDWELL: Object to the form.
 19 Q. Tell me every basis you have for that
 20 allegation.
 21 A. He just had an attitude and a temper out on
 22 the floor.
 23 Q. And did he -- he exhibited that attitude

1 and temper towards everybody on your shift?
 2 A. Everybody.
 3 Q. When you contend that he used profanity or
 4 acted in an unprofessional -- had
 5 unprofessional behavior, did he ever say
 6 anything about race?
 7 A. No. He just told me that --
 8 MR. TIDWELL: Just answer her
 9 question. Let's go.
 10 Q. Tell me what -- You say in the last line
 11 that it became an unsafe atmosphere to work
 12 in. Tell me what you mean. How was it
 13 unsafe?
 14 A. The way they changed everything over there
 15 and fixed the lines.
 16 Q. It wasn't because of anything Mike Alford
 17 was saying; is that --
 18 A. No.
 19 Q. Is that true?
 20 A. Let me see where you at.
 21 Q. I'm looking at the last sentence of the
 22 first paragraph. You say it was an unsafe
 23 atmosphere. I'm trying to understand what

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1 you mean.

2 A. Just the way he had -- like I say, the way

3 he had an attitude and -- out on the floor

4 and the way he carried on out there on the

5 floor. You don't supposed to carry on out

6 there on the floor around the workers like

7 that.

8 Q. Under the next heading, third miscellaneous

9 notice, you say: On March 7th, 2006, along

10 with personnel manager Brendt Murphy, who

11 is white, harassed me again in Mike

12 Alford's office.

13 Do you see that?

14 A. Uh-huh. (Positive response.)

15 Q. Do you contend that Brendt Murphy

16 discriminated against you based on your

17 race?

18 A. I don't know.

19 Q. Tell me what you mean by being harassed

20 again on March 7th, 2006. What happened on

21 that day?

22 A. That's the day that I was trying to talk to

23 him and tell him the situation in the

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1 packing department.

2 Q. Who?

3 A. Mike Alford. And when the guy -- we was

4 standing there, and the guy -- me, him --

5 Mike Alford and Mike Lingo was standing

6 there, and the guy walked off from the

7 machine.

8 Q. What guy?

9 A. At 11:00 o'clock when the bell rung.

10 Mitchell Daniels.

11 Q. Okay.

12 A. I was talking to them about, I got two

13 lines and supposed to have 11 people, but I

14 didn't have but five at each line, that I

15 was going to put them together. And I had

16 told that line not to start up because it

17 ain't enough people to run that line. I

18 was going to put them together. I was

19 trying to show him that, you know, I needed

20 more people on third shift.

21 Q. Trying to show?

22 A. Mike Alford. But he kept carrying on about

23 Mitchell Daniels the whole time. So I just

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1 went on and told the line, just go on and

2 move to the number one line.

3 Q. Do you contend that him doing that was

4 discriminatory in some way?

5 A. I don't know because he never did -- well,

6 he did say he was going to bring somebody

7 from first shift, give me ten people from

8 first shift that night, but --

9 I had told the first shift supervisor,

10 Clara, that he said he's going to send ten

11 of your Manpower people there. Said he

12 can't do that. We need our people.

13 He came back the next day and said

14 we're going to get ten people from the

15 Manpower to come in. They come in that

16 Thursday night before I left. I sat down

17 and read them the safety hazards and all

18 that stuff, showed them around.

19 Q. Look further down in this paragraph under

20 third miscellaneous notice toward the end.

21 It says -- you write: I was forced to sign

22 three write-ups in the period of three

23 months.

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1 What are you talking about there?

2 A. Which they didn't give me a chance to do

3 anything, really.

4 Q. I don't understand what you mean.

5 A. To prove that I can do my job.

6 Q. Who are you saying, forced you to sign

7 three write-ups?

8 A. The managers.

9 Q. What managers?

10 A. Frank and Mike Alford.

11 Q. Who did you sign write-ups for?

12 A. I signed personnel notices.

13 Q. And you contend that you were forced to do

14 that?

15 A. You know, they was telling me what I need

16 to do, you know, but --

17 Q. Did you --

18 A. It's a whole different story now, you know.

19 Q. Did you disagree with writing up your

20 employees?

21 MR. TIDWELL: Kelly, he's talking

22 about the personnel notices

23 that he was written up for, he

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1 was forced to sign those.
 2 MS.PATE: Okay. Talking about
 3 two different things here.
 4 That's what I'm trying to
 5 figure out.
 6 Q. Why keep asking for -- help me understand
 7 All right.
 8 So you don't contend that you were
 9 forced to write up your employees, do you?
 10 A. I was forced to write up my employees?
 11 Q. Do you contend that?
 12 A. No, I wasn't forced to write up my
 13 employees. Only thing I was forced to do
 14 was Mitchell Daniels.
 15 Q. And did you fire Mitchell Daniels?
 16 A. Yes, I fired Mitchell Daniels.
 17 Q. On what basis?
 18 A. Poor job performance.
 19 Q. Poor job performance. Tell me about --
 20 What was his poor job performance?
 21 A. Mike Alford, he still was standing there
 22 when he come from the bathroom. He stood
 23 there and watched him work. He said -- he

1 ahead on and fire him without looking at
 2 anything.
 3 (Brief interruption.)
 4 A. See, Mike hadn't looked at his record, but
 5 I know what his record was because I just
 6 had wrote him up probably three or four
 7 weeks ago. But if he -- he didn't have the
 8 final notice, I would have had to have said
 9 something different to him. I couldn't
 10 have fired him.
 11 Q. Flip over to the next page, From Lee 0004.
 12 We've already talked about some of this, so
 13 I want to go down about midway on that
 14 page. There's a sentence that starts on
 15 March 11, 2006. Do you see where I am?
 16 A. Uh-huh. (Positive response.)
 17 Q. You say on that day that you went in to the
 18 personnel office and, quote, once I got
 19 there, Mike Alford and Brendt Murphy
 20 harassed me. Mike Alford told me that he
 21 does not like the way I supervise, closed
 22 quote.
 23 Tell me how you contend they harassed

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1 said, he ain't doing nothing and I don't
 2 like the way he bag. He bag too slow. I
 3 don't see how y'all put up with that long.
 4 I ain't going to put up with him, so I want
 5 you to fire him, like that.
 6 Q. Had you ever written up Mitchell Daniels
 7 before?
 8 A. I had give his final notice.
 9 Q. You had written him up three times?
 10 A. I had give him -- he had one counsel when
 11 he come from first shift, I think. I wrote
 12 him up the three warnings and final notice,
 13 too.
 14 Q. And then Mr. Alford said to you, let's go
 15 ahead and fire him?
 16 A. Uh-huh. (Positive response.) But he
 17 didn't know what kind of record Mitchell
 18 had. See, you got to wait till the next
 19 morning and go to personnel, but I already
 20 knowed.
 21 Q. Did you disagree with the decision to
 22 terminate him?
 23 A. I disagree with him, but he told me to go

1 you.
 2 A. That's when he told me he was sending me to
 3 second shift to see if I can supervise. I
 4 had been supervising for three years by
 5 myself, from 2001 to 2004. Like I say, he
 6 had come in there -- hadn't been there
 7 three weeks -- two weeks. Two weeks. He
 8 fired me in two and a half weeks.
 9 Q. Mr. Alford told you that he was unhappy
 10 with your performance as a supervisor?
 11 A. Uh-huh. (Positive response.)
 12 Q. Is that a yes?
 13 A. Yes.
 14 Q. And you believe that his telling you that
 15 was harassment?
 16 MR. TIDWELL: Object to the form.
 17 A. I don't know.
 18 Q. Well, did you believe that he told you he
 19 was unhappy with your job performance
 20 because of your race?
 21 A. I don't know.
 22 Q. Later on in that paragraph a couple of
 23 lines down, you say: I think it is only

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1 fair and just that if he -- and you're
2 referring to Mike Alford -- wants to
3 discuss what goes on with third shift, he
4 should discuss it with me and not my
5 helper, Michael Lingo, who is not a
6 supervisor, but a lead person.
7 A. Uh-huh. (Positive response.)
8 Q. Tell me the basis for that.
9 A. He would call Michael in there and talk
10 with Michael first. Then he would call me
11 in there second.
12 Q. And you believed that he should have called
13 you in first to talk to you?
14 A. Right.
15 Q. How long had Michael Lingo worked for you?
16 A. I think he started in 2004.
17 Q. And he's a black male?
18 A. Right.
19 Q. The next sentence says: Michael Lingo is
20 not doing his job efficiently due to he
21 does not help the workers on the floor like
22 his job requires him to do.
23 Help me understand what you mean there.

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1 A. I could be in the office, like, doing --
2 fixing the time, the reports for the
3 night. You know, you got to keep up with
4 the time and the hours they work. I be
5 there doing that.
6 When I come back out on the floor,
7 Michael be standing there and they call me
8 to the machine. And I say, where is
9 Michael at? Why didn't y'all call him? I
10 don't want to see Michael. Michael don't
11 know what to do with this. I want to see
12 you.
13 Q. And Michael Lingo reported directly to you?
14 A. Yes.
15 Q. Did you ever write Mr. Lingo up?
16 A. No.
17 Q. Ever give him a personnel notice?
18 A. No.
19 Q. Ever give him a miscellaneous notice?
20 A. No.
21 Q. Ever give him a corrective action report?
22 A. No, just a yearly review.
23 Q. How long did he work under you?

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1 A. 2004 November, I think, or October when he
2 started.
3 Q. 2004?
4 A. Uh-huh. (Positive response.)
5 Q. The last sentence on this page, you say: I
6 was told by word of mouth the three choices
7 I could take which was discuss in a very
8 unprofessional and full-of-hatred manner.
9 Now, are you talking there about the
10 three choices we talked about earlier?
11 A. Yes.
12 Q. About you could take the forklift job or
13 work out your unused vacation --
14 A. Uh-huh. (Positive response.)
15 Q. -- or receive pay for it or receive it in a
16 lump sum?
17 A. Yes.
18 Q. Were those options discussed in a meeting
19 with you?
20 A. No.
21 Q. How did you learn of them?
22 A. When they called me in the office March
23 11th.

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1 Q. Who called you in?
2 A. Mike Alford -- well, I was in there
3 finishing doing my paperwork. He told me
4 when you get through with your paperwork --
5 that Saturday morning, he said, I want you
6 to come to personnel. I've got to talk to
7 you about something.
8 So when I got to personnel, I said --
9 the first thing Brendt Murphy said, you're
10 being separated from the company.
11 Q. Were Mike Alford and Brendt Murphy the only
12 people there?
13 A. Uh-huh. (Positive response.) The only
14 people in there.
15 Q. And at that time, they told you that they
16 were removing you from your third shift
17 supervisory role?
18 A. (Witness nods head up and down.) I was
19 separated from the company.
20 Q. Did they first tell you that you were
21 removed from your supervisory role?
22 A. Huh-uh. (Negative response.) They told
23 me -- Brendt Murphy talked first. Told me,

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1 first thing he said, I was separated from
 2 the company. Then he told me that -- he
 3 was asking did I have any insurance. I
 4 said, my insurance is with my wife. He
 5 said, that's a good thing for you. Said,
 6 if you want to --
 7 Q. Get what?
 8 A. He said, you're going to drop down to a
 9 lower bracket -- if you take a lower-paying
 10 job, you drop down to a lower bracket. He
 11 said, look ahere, I'm going to give you
 12 these choices, and that's the three
 13 choices.
 14 Q. Then he offered you --
 15 A. Three choices after he said I was
 16 separated.
 17 Q. And one of the choices was the set order
 18 puller job?
 19 A. Uh-huh. (Positive response.)
 20 Q. Is that a yes?
 21 A. Yes.
 22 Q. Tell me how is it that you contend that
 23 Mike Alford and Brendt Murphy were very

1 From Lee 0005. I'm looking about the
 2 middle of the page. You say: I was fired
 3 on March 10, 2006, and not given notice
 4 until I had worked that day and given
 5 notice a day later.
 6 Help me understand what you mean by
 7 that. Tell me the basis for that
 8 allegation.
 9 A. Like I say, when he called me in there and
 10 told me I was separated on 3-10-06, that
 11 Saturday morning, but I had worked eight
 12 hours, the 11th -- all Friday night going
 13 into Saturday morning. I had worked all
 14 night. Really didn't even supposed to be
 15 on the premises if I was separated on the
 16 10th. Anybody get separated from the
 17 plant, they don't want you on the property
 18 at all.
 19 Q. Let me make sure I'm understanding you.
 20 You're saying you worked March the 10th a
 21 full day?
 22 A. I went in March the 10th at 11 o'clock.
 23 MR. TIDWELL: 11:00 at night.

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1 unprofessional and acted in a full-of-
 2 hatred manner during that meeting.
 3 A. Just like he just told me -- Mike Alford
 4 told me, said, don't come in tonight. I
 5 got somebody in your place. Just check
 6 back with us -- call me at my house Sunday
 7 if you want any of them three choices.
 8 Q. And you believe their giving you those
 9 choices was full of hatred and
 10 unprofessional?
 11 A. Uh-huh. (Positive response.) I'm the one
 12 that told them to write down them three
 13 choices. So Brendt Murphy took the pencil
 14 and wrote it down. Mike Alford said call
 15 me. I'm going to write down my phone
 16 number. He wrote his phone number on the
 17 paper.
 18 Q. Do you contend that Mike Alford and Brendt
 19 Murphy discriminated against you based on
 20 your race in giving you those three
 21 choices?
 22 A. I don't know.
 23 Q. Flip over to the next page, Bates stamped

1 A. Going into the 11th.
 2 Q. To start your shift?
 3 A. On Friday night, March the 10th, that's our
 4 11th.
 5 Q. So you worked that whole day or that whole
 6 shift?
 7 A. Whole shift.
 8 Q. Through 7:00 a.m. on the 11th?
 9 A. Uh-huh. (Positive response.)
 10 Q. And then that's when you met with Brendt
 11 Murphy and Michael Alford?
 12 A. Yeah, told me to go to personnel, do my
 13 paperwork.
 14 Q. On the 11th?
 15 A. Uh-huh. (Positive response.)
 16 Q. Is that a yes?
 17 A. Yes.
 18 Q. Look at the next page, Bates stamped From
 19 Lee 0006. In the middle of that page, you
 20 have seven, looks like, places listed where
 21 you say you've applied for a job. Do you
 22 see that?
 23 A. Uh-huh. (Positive response.)

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1 Q. Do you have copies of the applications that
2 you made at these companies?
3 A. No. I got a copy of Michelin.
4 Q. You have a copy of what?
5 A. Michelin.
6 Q. Michelin?
7 A. Not an application. I got a copy where
8 they told me to come take a test.
9 Q. Was that in response to a job application?
10 A. Uh-huh. (Positive response.)
11 Q. Was that a yes?
12 A. Yes.
13 Q. I'd like to see that, if you would give
14 that to your attorney.
15 MR. TIDWELL: Do you still have
16 it?
17 THE WITNESS: Where they told me
18 to come take the test.
19 Q. There are seven items listed there, and
20 four through seven you show on-site in
21 parentheses. Does that mean you applied
22 for a position on-site at that company?
23 A. Uh-huh. (Positive response.)

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1 Q. Is that a yes?
2 A. Yes.
3 Q. Tell me for the items you list in one
4 through three how you applied for those
5 jobs.
6 A. I went to Wal-Mart Distribution, and you
7 have to fill your application out on the
8 computer.
9 Q. So you went to the distribution center?
10 A. Uh-huh. (Positive response.)
11 Q. What about number two, CDA Security?
12 A. I went to Ft. Rucker and tried for
13 security.
14 Q. What do you mean you tried for security?
15 A. In order for you to pass -- pass -- when
16 you first get there, they give you that --
17 you've got to run a mile.
18 Q. Okay.
19 A. And I couldn't run a mile.
20 Q. You went there and did a physical?
21 A. You've got to do, I think, 20 sits-ups and
22 20 push-ups and run a mile, and I couldn't
23 run the mile.

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1 Q. Number three, you show three different --
2 you say you applied for unemployment, or
3 did you apply for jobs at unemployment?
4 A. Unemployment.
5 Q. Okay. And did you receive unemployment?
6 A. Yes.
7 Q. And then under that, it says Michelin Tire
8 Company. Did you apply for a job there?
9 A. Yes.
10 Q. Did you go to Michelin Tire Company?
11 A. Huh-uh. (Negative response.) Not this
12 time.
13 Q. Tell me how you applied --
14 A. The first time when they call you -- when
15 you go fill the application out, you go to
16 the unemployment office for Michelin. And
17 then the next time the unemployment call
18 you, you fill out the application.
19 So I went to the unemployment office to
20 fill out the application. That's when
21 Michelin will call you to come to their
22 plant to fill out an application.
23 Q. And did you do that, go to the Michelin

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1 plant?
2 A. Huh-uh. (Negative response.) They never
3 called me to come take an application. But
4 they called me I think the first of the
5 year to come take another application.
6 They called me then.
7 Q. Did you do that?
8 A. I took the test, but they never did call me
9 to come work.
10 Q. What about -- Under that, it says KHF
11 Industry.
12 A. That was a new company coming to Dothan.
13 Q. And where did you apply for --
14 A. At the unemployment office.
15 Q. Tell me when you applied for each of those
16 jobs.
17 A. I think Wal-Mart Distribution after I
18 applied -- I applied -- in security, I
19 applied in March.
20 Q. So you applied for a security job at
21 Wal-Mart in March?
22 A. Huh-uh. (Negative response.) Number one
23 and number two.

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1 Q. Number one and number two. Okay. I see.
2 What was the job you applied for at
3 Wal-Mart?
4 A. Onliest thing they showed me was the
5 distribution center.
6 Q. What about Michelin Tire and KHF?
7 A. Onliest thing I put down there, you know --
8 if they called me, I'd have put general
9 down there on the application.
10 Q. When did you put in those applications?
11 A. I think Michelin had something like an ad
12 in the paper. I think it was about in May
13 or something like that.
14 Q. What about the KHF?
15 A. I went to that in May. I went to Dunbarton
16 in May. I went to Twitchell two or three
17 times. I went to Nutcracker the same day I
18 went to Dunbarton. I went to the yeast
19 plant I think a day or two later.
20 Q. In May also?
21 A. Uh-huh. (Positive response.)
22 Q. Is that a yes?
23 A. Yes.

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1 Q. Did you apply anywhere else other than
2 these places listed here?
3 A. I went and filled out an application at
4 Perdue.
5 Q. What?
6 A. Perdue.
7 Q. Perdue?
8 A. Uh-huh. (Positive response.)
9 Q. What is that?
10 A. It's something like a chicken plant in
11 Dothan.
12 Q. Anywhere else?
13 A. I filled out the job I got now.
14 Q. All right.
15 A. I went to the egg plant in Abbeville.
16 Q. Is that everything you did to try to find a
17 job after you left WestPoint?
18 A. It could be some more, but I can't
19 remember. I went to a lot --
20 Q. Everything you remember.
21 A. Another job I went to, my pastor had told
22 me to sign up for the nuclear plant in
23 Columbia, so I signed up for the nuclear

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1 plant online. He told me to go online and
2 sign up. They sent a thing back saying I
3 wasn't qualified this time, to keep my name
4 in the thing.
5 Q. Tell me when you found a job. When did you
6 get hired?
7 A. They sent me a thing in the mail in
8 December.
9 Q. Who were you hired by?
10 A. Unemployment. I had to go to the
11 unemployment office and fill the
12 application out.
13 Q. For what job?
14 A. For SWIFCO.
15 Q. SWIFCO?
16 A. Uh-huh. (Positive response.)
17 Q. And is that who you're with now?
18 A. Uh-huh. (Positive response.)
19 Q. What's your position?
20 A. I'm at the window department.
21 Q. At the what department?
22 A. Window. Window department. They make
23 doors and windows.

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1 Q. What do you do in the window department?
2 A. I do -- I call it prep. You've got to cut
3 the parts out for to fit all four corners
4 of the windows.
5 Q. And how long have you been there?
6 A. Since January the 22nd.
7 Q. January 27th of 2007?
8 A. Uh-huh. (Positive response.) They sent me
9 a letter in the mail, told me I had to come
10 take -- had to go to class for a week.
11 That was January the 15th I think they told
12 me --
13 Q. So you've been working there since January?
14 A. Uh-huh. (Positive response.)
15 Q. That was the first place you were hired?
16 A. First place that said they'd hire me.
17 Q. And how much are you -- are you being paid
18 hourly or on salary?
19 A. Hourly.
20 Q. What's your rate?
21 A. Right now, it's 9.25. It was 8.50 when I
22 started.
23 MR. TIDWELL: Just make it clear.

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1 You started in January of '07,
2 right?
3 THE WITNESS: Uh-huh. (Positive
4 response.)
5 Q. On the next couple of pages here, Bates
6 stamped From Lee 0007 through 0008, you
7 give a list of items that you contend are
8 your lost wages and benefits. Did anybody
9 help you come up with those calculations?
10 A. It was me and my wife.
11 Q. And you list an amount for lost wages, lost
12 vacation pay, lost life insurance, lost
13 social security, lost Medicare, lost
14 severance pay of six months; is that right?
15 A. Yes.
16 Q. All of the calculations that you did are
17 based on if you had worked for WestPoint
18 for another 15 years; is that right?
19 A. Yes.
20 Q. Now, didn't WestPoint's pension plan end
21 for all employees in December of 2004?
22 A. I don't know.
23 Q. You don't remember that the pension plan

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1 ended in December 2004?
2 A. I really don't know.
3 Q. You would still -- you're still eligible to
4 start drawing a monthly pension at age 55;
5 is that right?
6 A. Yes.
7 Q. The life insurance that you -- the first
8 life insurance that you mention on this
9 calculation, that's still available to you
10 at a premium; is that right?
11 A. Yes.
12 Q. The second life insurance that you mention,
13 Universal Life insurance, that wasn't a
14 WestPoint-sponsored plan, was it?
15 A. It's been there a long time.
16 Q. Wasn't that a vendor that came to WestPoint
17 and offered life insurance? It wasn't a
18 company policy I guess is a better
19 question.
20 A. I really don't know.
21 Q. Isn't vacation pay part of your salary?
22 It's not a separate part in addition to
23 salary, is it?

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1 A. We don't get no vacation pay. Onliest time
2 you get vacation pay, you separated --
3 onliest time you get vacation pay is if
4 you're separated from the company. You
5 done already earned it.
6 Q. But you get vacation time I guess is --
7 A. You get your vacation days, yeah. Onliest
8 thing about -- you still get paid.
9 Q. All right. At the end, on From Lee 0008,
10 you say that you've been caused pain and
11 suffering. Is there anything that you feel
12 like encompasses the pain and suffering
13 that you believe you've been caused that
14 you have not already told me about?
15 A. Is there any what, now?
16 Q. Tell me what pain and suffering you believe
17 has been caused.
18 A. Lost wages. It's listed right there.
19 MR. TIDWELL: She's talking about
20 your other stuff you've
21 already talked about, your
22 emotional distress and all
23 that kind of stuff

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1 Q. I want to make sure there's not anything
2 that you haven't already told me about.
3 A. No.
4 Q. You've told me everything?
5 A. Yes.
6 Q. Prior to today, I sent a request for
7 documents to your attorney. Were you aware
8 of that?
9 A. To who, now?
10 Q. I sent a request for documents to your
11 lawyer. Did you know that?
12 A. What lawyer are you talking about?
13 MR. TIDWELL: She's talking about
14 me. Remember when we met to
15 go over answers to questions
16 and all that?
17 THE WITNESS: Yeah.
18 Q. Did you produce all the documents, notes,
19 diaries, everything that you have that
20 relates to this case?
21 A. Yes.
22 Q. You gave it to Jay?
23 A. To Jay.

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1 Q. And you don't have anything else at home
2 that you haven't already produced?

3 A. Huh-uh. (Negative response.)

4 MR. TIDWELL: With the exception
5 of the two things that we've
6 talked about, Michelin --

7 MS. PATE: Right, that you're
8 going to go back and look for
9 and the handwritten notes.

10 Q. We requested your 2005 and 2006 tax
11 return. You've provided your 2006 tax
12 return. Can you provide your 2005 tax
13 return?

14 THE WITNESS: What did you get?

15 MR. TIDWELL: You gave me the 2006
16 one, but you said you couldn't
17 find the 2005.

18 A. Yeah. I'll look for it.

19 Q. If you'll put that on your list of things
20 to look for and get that to Jay.

21 A. Okay.

22 MS. PATE: I think I need just a
23 couple of minutes just to go

1 Q. And that's your signature at the bottom of
2 the page?

3 A. Yes.

4 Q. What about Exhibit 2 to Defendant's Exhibit
5 19?

6 A. It's totally different. Like I say,
7 everything had a personnel notice on it. I
8 never did see anything with WestPoint Homes
9 on it.

10 Q. Have you ever seen Exhibit 3 to Defendant's
11 Exhibit 19?

12 A. I still didn't see a WestPoint Homes
13 paper. Only thing I saw was this writing,
14 this part they read me.

15 Q. The part under disciplinary action?

16 A. That's the only thing I remember.

17 Q. But you don't remember the part under
18 performance/conduct description?

19 A. No.

20 Q. You don't believe you've ever seen that
21 before?

22 A. Huh-uh. (Negative response.)

23 Q. Is that a no?

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1 over a couple of things, maybe
2 like three or four follow-up
3 questions, and then we can be
4 done.

5 (Brief recess was taken.)

6 Q. I want you to take a look at Defendant's
7 Exhibit 19, and that's the declaration of
8 Brendt Murphy. And there are -- all I need
9 you to do is look at -- go through one by
10 one the first three exhibits to Defendant's
11 Exhibit 19. I want you to tell me if
12 you've seen the document before --

13 MR. TIDWELL: Kelly, I think we've
14 already done this.

15 MS. PATE: I know, but it's not
16 real clear.

17 MR. TIDWELL: Have you seen
18 Exhibit 1? Let's start with
19 Exhibit 1.

20 A. One page of it.

21 Q. And you contend that there's a second page
22 to this?

23 A. Right.

1 A. No.

2 Q. Mr. Lee, just so that the record is clear,
3 I want you to tell me every person who you
4 believe discriminated or harassed you based
5 on your race.

6 A. I think Bob Turner. I think Brendt Murphy,
7 Mike Alford and Frank Majors.

8 Q. Have you told me everything you know
9 related to the allegations that you've made
10 in this lawsuit?

11 A. Yes.

12 MS. PATE: I don't think I have
13 anything further.

14 MR. TIDWELL: I've got a couple of
15 questions.

16 EXAMINATION

17 BY MR. TIDWELL:

18 Q. First, Mr. Lee, why were you terminated
19 from WestPoint?

20 MS. PATE: Object to the form.

21 A. One reason, because I was black. Another
22 reason --

23 Q. Well, let's -- I'm sorry. Go ahead.

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1 A. Another reason was my yearly review was
2 altered. They told me they was going to
3 give me two weeks to clear myself up as a
4 supervisor. They just give me three days
5 and let me go.
6 Q. Is that all you can remember at this time?
7 A. It could be some more, but I can't think of
8 it.
9 Q. But you feel you were terminated because of
10 your race?
11 A. Yes.
12 MR. TIDWELL: I don't have any
13 other questions.
14 MS. PATE: That's it.
15 (Deposition concluded at 4:30 p.m.)
16
17
18
19
20 *****
21 FURTHER DEPONENT SAITH NOT
22 *****
23

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1 examination of said witness by counsel for the
2 parties set out herein. The reading and signing of
3 same is hereby waived.
4 I further certify that I am neither of kin
5 nor of counsel to the parties to said cause nor in
6 any manner interested in the results thereof.
7 This 18th day of July 2007.
8
9
10
11
12 Lisa J. Nix, Registered
13 Professional Reporter and
14 Commissioner for the State
15 of Alabama at Large
16
17
18
19
20
21
22
23

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1 REPORTER'S CERTIFICATE
2 STATE OF ALABAMA:
3 MONTGOMERY COUNTY:
4 I, Lisa J. Nix, Registered Professional
5 Reporter and Commissioner for the State of Alabama
6 at Large, do hereby certify that I reported the
7 deposition of:
8 CLAUDE GENE LEE, SR.
9 who was first duly sworn by me to speak the truth,
10 the whole truth and nothing but the truth, in the
11 matter of:
12 CLAUDE GENE LEE, SR.,
13 Plaintiff,
14 Vs.
15 WESTPOINT HOME, INC.,
16 Defendant.
17 In The U.S. District Court
18 For the Middle District of Alabama
19 Northern Division
20 Case Number 1:06-CV-874-MHT
21 on Tuesday, July 17, 2007.
22 The foregoing 201 computer printed pages
23 contain a true and correct transcript of the

A				
<p>Abbeville 9:13 10:5 12:11 15:22 47:2 190:15 ability 7:21 52:8 about 10:9 11:1 12:20 13:7,8 14:1,7 15:11 15:13 17:6,7,11 21:4 22:22 23:2,12 28:22 29:4 32:1,19 35:10 35:19,20 36:13,14 38:1 39:2 40:2,7,13 41:14 42:1,11,14 43:11 44:22 45:2,4,6 45:16 47:21 49:6,16 54:5,9 55:2,13 60:10 61:19 62:7,22 63:2,3 67:11 68:3,5,22 69:11,14 71:3,8,22 73:1,11 75:8 76:15 76:19 77:5,12 78:20 78:21 79:1 81:18,21 82:9,22 83:4,6,11,16 83:20 87:10 90:11 96:23 109:18 110:21 110:22 116:18 119:1 121:16 123:11,12,19 124:3,14,22 126:3,15 129:16 132:14 134:5 134:22 137:21,22 139:8 140:17,18,21 141:22 142:4,8,14,14 142:15 143:22 145:22,23 147:13 153:21,22 154:10,12 155:5 156:19 157:18 158:7,11 161:8,10,11 162:6,17 164:13,22 164:23 165:16 166:13,14,21 167:15 168:6 170:12,22 172:1,22 173:2,19 175:12,13 179:9,10 179:12 180:7 183:1 186:11 188:10 189:6 189:12,14 195:8,14 195:19,21 196:2,12 196:13 197:6 199:4 above 19:23 20:2 25:4 25:15 42:5 72:10 111:12,17 absent 113:14 accept 129:16 accepted 166:22 167:8 according 45:19 54:15 acknowledge 20:3 25:5 110:14 acknowledges 25:1,18 acknowledging 20:6 26:1 87:20 102:15</p>	<p>acknowledgment 3:10 3:15 24:23 25:16 acted 90:19 168:4 182:1 action 3:17 4:6,8 27:8 28:3 37:20 39:1,11 56:17 72:9,14 79:11 81:23 82:9 84:9 85:7 85:9 86:3 90:5,22 91:19 92:3,13,17,18 92:22 93:3,10,17 94:8,17,20,23 95:3,8 95:9 96:7,12,15 102:7,18 103:2,17 106:9 108:14 109:1 109:18 110:8,15 178:21 199:15 actions 27:21 43:14 137:10 actual 135:22 Actually 69:5 ad 189:11 addition 194:22 address 9:12,14 11:11 11:19 27:22 28:4,13 138:17 139:1 addressed 71:18 affect 7:20 8:2 affidavit 3:20 44:1 46:6 51:16 53:13 58:20 61:1,8 68:12,14 75:23 89:20 90:2,17 91:6 92:5,11 93:8,11 96:18 98:15 101:22 108:20 109:3,17 110:4,7 111:1 114:16 116:1 118:15 123:5 130:11 131:7 133:7 134:17 136:3 137:9 African-American 31:16 61:6 after 6:8 11:3 12:16 21:20 29:9 47:6 49:17,18 52:12,12 61:2 70:20 73:18,20 74:8 75:6,13,15 93:9 98:10 134:1 143:17 181:15 188:17 190:17 again 39:6 109:14 118:7 122:7 169:11 169:20 against 15:1 29:20 31:13 33:16 41:6,10 43:8 136:10,12,17 137:3 165:20 169:16 182:19 age 136:5,11,14 194:4 ages 12:4 aggressively 105:19</p>	<p>ago 88:16 175:7 agree 20:5 25:23 36:2 49:12 50:20 51:4 55:16 57:3 111:15 123:17 124:3 155:21 agreed 5:2,16,23 agreement 1:15 ahead 64:1 83:9 174:15 175:1 200:23 ahere 181:11 ain't 29:4 39:13,21 60:20 63:7,8 64:9 71:5 81:4 117:9,14 118:11 123:6 155:14 170:17 174:1,4 AL 2:6 Alabama 1:2,17,20 2:12 5:8 9:13 12:8 138:18 139:2 202:2,5 202:18 203:12 Alford 36:11 43:12 74:14,20 75:1,9,12 75:13 79:12 91:1,2 92:17 96:19 104:15 105:2 112:6,10 114:21 115:2,7 120:4 120:8,18 121:5 123:9 123:12,14 127:23 131:6,17 166:12 167:13 168:16 170:3 170:5,22 172:10 173:21 174:14 175:19,20 176:9 177:2 180:2,11 181:23 182:3,14,18 184:11 200:7 Alford's 76:4 128:9 169:12 allegation 31:21 33:20 41:9 43:18 99:3 116:11,15 119:13 121:11 167:20 183:8 allegations 151:17,18 152:5 200:9 allege 33:16 alleged 121:7 almost 13:3 along 32:15 103:5 104:16 169:9 already 16:13 37:16 72:23 87:23 118:6 122:18 127:16 129:16 137:5 174:19 175:12 195:5,14,21 196:2 197:2 198:14 altered 201:2 Although 90:19 always 17:11,13 53:7 63:19 amount 193:11</p>	<p>another 26:7 46:1 53:22,22 54:1,17,17 55:15 56:8 75:5 77:22 114:11 154:16 154:22 156:11 159:20 188:5 190:21 193:18 200:21 201:1 answer 7:1,5 24:9 33:10 168:8 answered 37:16 72:23 82:21 127:16 answering 6:17 answers 196:15 antidepressant 146:21 anti-harassment 22:14 Anti-harassment/ret... 3:13 anxiety 147:16 anybody 9:20 11:21 63:21 64:8,8 77:9 78:23 120:5 138:2 147:7 183:16 193:8 anymore 103:5 anyone 15:1 35:7 51:12 147:4 anything 38:21 43:5 55:20 58:4 63:1 71:3 71:8,21 72:18 93:19 93:21 119:2 126:22 137:20,21 143:1 145:11 147:21 148:1 152:14,16 155:5 161:8 165:13 168:6 168:16 172:3 175:2 195:11 196:1 197:1 199:8 200:13 anytime 63:4 111:5 anyway 140:19 152:21 anywhere 22:21 26:16 31:6 190:1,12 appear 151:19 APPEARANCES 2:1 appears 24:20 68:8 appetite 142:4,5 application 185:7,9 186:7 187:15,18,20 187:22 188:3,5 189:9 190:3 191:12 applications 185:1 189:10 applied 184:21 185:21 186:4 187:2,13 188:15,18,18,19,20 189:2 apply 187:3,8 188:13 190:1 approximately 1:21 90:20 April 130:9,10 area 56:20</p>	<p>around 13:19 30:22 31:2 113:15 169:6 171:18 arrested 8:23 asked 17:14 61:20 62:6 72:10 145:10 147:13 155:3 asking 33:8 76:18 86:14,18 87:1,3 96:10 106:4 110:3,5 110:9 120:17 124:21 125:5,5 152:2,3 164:6 173:6 181:3 asset 8:13 assist 49:3 assistance 72:11 associate 105:20 associates 3:9,11,14 19:2 20:7 21:11,18 21:23 24:18 25:9 26:10 27:8,11 36:5 70:17,19 assume 7:1 Atlanta 12:9 150:8 atmosphere 168:11,23 attached 91:7 93:13,15 94:2,7 attacks 142:8 attempt 130:14 142:10 attitude 167:21,23 169:3 attorney 185:14 196:7 Attorneys 2:11 August 16:11 19:21 49:6 automatic 13:13 available 114:10 194:9 Avenue 1:19 2:5 average 42:5 46:7 67:19,20,22 68:10 aware 196:7 a.m 44:15,16,18 184:8</p>
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TAB 7

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

CLAUDE GENE LEE, SR.,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. 1:06-CV-874-MHT
)	
WESTPOINT HOME, INC.,)	
)	
Defendant.)	

DECLARATION OF FRANK MAJOR, III

Pursuant to 28 U.S.C. § 1746, I, Frank Major, III, certify that the following declaration is based upon my personal knowledge.

1. I am a black male and am currently the Safety/Training Director for WestPoint Home, Inc. and I assist in the human resources department in this role.

2. From December 15, 2005 to February 20, 2006, I was Claude Lee's direct supervisor. Mr. Lee was third shift supervisor of the packaging department at that time. I also supervised, during that time, Mr. Billy Wayne Bedsole and Mr. Mike Ethridge, the other packaging department shift supervisors.

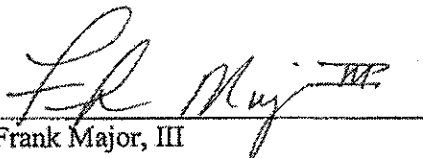
3. I completed performance reviews in January 2006 for Mr. Lee, Mr. Bedsole, and Mr. Ethridge. I am aware that Mr. Lee now contends that his January 25, 2006 performance review has been altered. His performance review as attached to my original affidavit appears as it did when he signed it. After discussing the review I completed for Mr. Lee with the plant manager, Mr. Glenn McCants, I lowered a few of the ratings I had marked in certain categories. I made these changes before Mr. Lee signed the performance review and before I met with Mr. Lee to discuss the review. I made similar changes on the performance reviews of Mr. Bedsole

and Mr. Ethridge -- that is, after discussing the reviews with Mr. McCants, but before the reviews were discussed or signed by Mr. Bedsole and Mr. Ethridge, I lowered some of the ratings in certain categories. Attached hereto are true and correct copies of the January 2006 performance reviews I completed for Mr. Bedsole and Mr. Ethridge.

4. On May 29, 2007 WestPoint announced its decision to entirely close the Abbeville Plant as of August 31, 2007. Since that time, WestPoint has determined that it will leave the distribution operations open and running at Abbeville. However, all other departments, including the packaging department in which Mr. Lee worked, are still slated to close. In fact, the second and third shifts in the packaging department have already closed. Employees on those shifts completed their last day of work on August 9, 2007.

5. Clara Thomas, a black female, was an employee on the first shift in the packaging department at the time Mr. Lee was removed from his position as third shift supervisor in that department. Ms. Thomas was offered a position as third shift supervisor; however, she declined the job because she desired to remain on the same shift on which she had been working. She accepted an hourly position on the first shift, rather than the salaried third shift supervisor position she was offered. Attached hereto is a true and correct copy of the personnel notice reflecting Ms. Thomas's position.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 12 day of September, 2007.


Frank Major, III

ATTACHMENT 1

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WESTPOINT STEVENS

PAGE 01

CONFIDENTIAL

WESTPOINT HOME

SALARIED-EXEMPT PERFORMANCE REVIEW

NAME Mike Ethridge
 DEPARTMENT/POSITION TITLE Wrap & Pack Supervisor
 FACILITY _____
 DIVISION and/or BUSINESS UNIT _____
 DATE LAST REVIEWED _____
 JSD _____
 RATING PERIOD _____
 PERFORMANCE RATING _____
 DATE COMPLETED _____

GENERAL INSTRUCTIONS

Timing:	A performance review is to be completed for each salaried-exempt associate annually between January 1 and January 31. It is the responsibility of each supervisor to prepare the performance review.
Procedure:	<p>The associate's performance of assigned tasks and accountabilities should be rated with respect to the performance factors below, utilizing the following scale:</p> <p>S – Superior: Consistently and substantially exceeds major job requirements. Accomplishments are extraordinary as demonstrated by job results.</p> <p>AR – Above Requirements: Exceeds most job requirements. Job results are measurably higher than job requirements.</p> <p>MR – Meets Requirements: Meets major job requirements. Performance is fully acceptable as demonstrated by job results.</p> <p>F – Fair: Performance is slightly below what is expected in the position. Performance needs improvement.</p> <p>M – Marginal: Falls to meet most job requirements. Performance requires immediate, substantial and sustained improvement.</p>
Acknowledgement:	This appraisal has been reviewed with the associate. It is understood that the signature does not necessarily indicate agreement with the content of the review.

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WESTPOINT STEVENS

PAGE 02

I. MANAGEMENT SKILLS EVALUATION

After carefully evaluating individual's work performance in relation to current job requirements, check the appropriate box to indicate the associate's performance. Explanations of terms appear at the bottom of this page. If not applicable, indicate N/A.

Management Skills (Evaluate the first two skills categories only if the associate has supervisory responsibility.)	RATING					Comments or Supportive Details
	SUPERIOR	ABOVE REQUIREMENTS	MEETS REQUIREMENTS	FAIR	MARGINAL	
DEVELOPMENT OF SUBORDINATES Ability to prepare subordinates for current positions, as well as for positions of greater responsibility.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Associates are trained on several different jobs.
SUPERVISION/MANAGEMENT SKILLS Ability to direct and control subordinates; ability to motivate and effectively coordinate the efforts of work groups.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mike has great management skills. Motivates associates to work hard & safe.
STRATEGIC PLANNING/ORGANIZING Ability to establish courses of action to accomplish specific goals. Allocation of resources, including setting priorities, meeting deadlines, anticipating problems.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Stays on top of priorities and keeps associates aware on issues and any problems that may occur.
JOB KNOWLEDGE Technical knowledge and the level of competence required to be successful in the incumbent position.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Has excellent knowledge of the job.
QUALITY Conformance to requirements re accuracy, thoroughness, acceptability of work performed.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Makes sure that all associates are aware of potential quality problems.
COMMUNICATION SKILLS Ability to clearly and persuasively express concepts, both orally and in writing; also, ability to listen effectively, grasp ideas and instructions.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Communicates very well with associates.
INTERPERSONAL SKILLS Ability to work cooperatively with subordinates, peers, superiors, and external contacts; ability to influence others without direct authority.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Works very well with associates as well as other supervisors.
ADMINISTRATIVE Ability to satisfy all administrative components of position (i.e. timeliness, completeness, accuracy, documentation.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Completes paperwork in a very timely manner.
LEARNING CAPABILITIES; OTHER RELEVANT SKILLS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Able to adapt to changes.

PERFORMANCE EVALUATION RATING

Superior	Consistently and substantially exceeds major job requirements. Accomplishments are extraordinary as demonstrated by job results.
Above Requirements	Exceeds most job requirements. Job results are measurably higher than job requirements.
Meets Requirements	Meets major job requirements. Performance is fully acceptable as demonstrated by job results.
Fair	Performance is slightly below what is expected in the position. Performance needs improvement.
Marginal	Fails to meet most job requirements. Performance requires immediate, substantial and sustained improvement.

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WESTPOINT STEVENS

PAGE 03

ANNUAL ACCOMPLISHMENT SUMMARY DEVELOPMENT REVIEW

(This page to be completed by associate)

Strictly Private**A. ACCOMPLISHMENT SUMMARY** (Summarize your accomplishments versus goals in the past year.)

Goals	Accomplishments
Lost Time 2005-0 _____ 0	
Recordables - 0 _____	
Incident Rate - 1.20 _____	
Productive Cost - 55 _____ .68	

B. STRENGTHS/GROWTH (Describe your strengths and how they changed in the past year.)

1. Good Listener
2. Associate know what I tell them is the Truth
3. Knowledge in Safety
4. Knowledge from working on production Lines, most of the dept. & Office

C. IMPROVEMENT/DEVELOPMENT NEEDS/PLANS (Identify most critical needs and responsive action plans.)

I still feel like a short Time Study class for Supervisors would give us another tool to use for a more efficiency department.

D. JOB/CAREER INTEREST (If interested in a job change, list preference including position title, business unit, location. Specify any geographic limitations, desired timing, etc. Also describe long-term interest.)

I am happy in my position and my goal is to retire at Age 62. Also Anywhere this plant needs me. I will be willing to go.

Michael E. [Signature]
Associate's Signature

1-25-06
Date

[Return to Table of Contents](#)

06/12/2006 15:08

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WESTPOINT STEVENS

PAGE 04

II. ANNUAL ACCOMPLISHMENT SUMMARY DEVELOPMENT REVIEW

(This page to be completed by immediate manager)

A. PERFORMANCE SUMMARY AND TREND (Summarize your view of associate's accomplishments versus goals in the past year and indicate performance.)

Zero lost time accidents
 9 recordables for the department
 Incident + rate for department was 4.02

B. STRENGTHS/GROWTH (Describe associates strengths and how they changed in the past year.)

Mikes able to motivate associates and do what it takes to get the job done. ~~Mike~~ Has excellent knowledge of the Packaging department.

C. DEVELOPMENTAL RECOMMENDATIONS

1. List Developmental Objectives and/or Skills To Improve based on overall performance rating and evaluation of management skills.
2. For any deficiencies noted on Management Skill Evaluation, planned development activity must be detailed here.
3. Developmental Objectives or Skills To Improve should be directly transferred onto next year's Objective Setting page.

Developmental Objectives/Skills To Improve	Planned Developmental Activity
Housekeeping	Continue to monitor
Associate Training	Continue to observe associates for areas of improvement.

D. FUTURE CAREER DISCUSSION

Discuss associate's career goals and objectives. List any positions in which the associate expresses an interest. Refer to Human Resources Manager if indicated.

E. OVERALL PERFORMANCE RATING

☐ Superior ☒ Above Requirements ☒ Meets Requirements ☐ Fair ☐ Marginal

F. ASSOCIATE'S COMMENTS**G. SIGNATURES**

L.H. May Jr.
 Immediate Manager
[Signature]
 Reviewing Manager

1-25-06
 Date
1-25-06
 Date

☐ Check if additional comments attached

[Signature] 1-25-06
 Associate's Initials
 Indicates that he/she read this appraisal and it has been discussed with him/her.

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Mf fOXQ !! 1691

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WESTPOINT STEVENS

PAGE 05



WESTPOINT HOME

PLANNED PERSONAL OBJECTIVES AND ACCOMPLISHMENTS FOR SALARIED-EXEMPT ASSOCIATES

Ethridge Mike S.

Associate's Name (last, first, middle initial)

wrap and Pack Supervisor

Title

Date

Bed Productions/Sheeting

Division and/or Business Unit

Planned Personal Objective Form 1-1-06

to

12-31-06

1. Efficiency Goal 95% end of 1st Qtr, 100% for 2nd, 3rd, 4th
2. Incident Rate of 2% or less for Dept.
3. Reduce cost per doz by .13¢ by end of 4th Qtr.
A. Goal of .65¢ 1st Qtr, .60¢ end of 2nd, .58¢ end of 3rd, .56¢ end of 4th
4. Zero lost time accidents in 2006

Michael Ethridge
 Associate's Signature

1-25-06
 Date

F.R. May Jr.
 Supervisor/Manager

1-25-06
 Date

(Note: All salaried-exempt associates supervising others must include in their goals their efforts in meeting EEO/AAP expectations.)

Please indicate target date for meeting each goal (1st, 2nd, 3rd and 4th quarter).

*Signatures above indicate agreement on goals and objectives at beginning of evaluation period.

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WESTPOINT STEVENS

PAGE 01

CONFIDENTIAL

WESTPOINT HOME

SALARIED-EXEMPT PERFORMANCE REVIEW

NAME B:116 Wayne Bedside
 DEPARTMENT/POSITION TITLE WRAP PACK Supervisor
 FACILITY _____
 DIVISION and/or BUSINESS UNIT _____
 DATE LAST REVIEWED _____
 JSD _____
 RATING PERIOD 1-01-06- 12-31-06
 PERFORMANCE RATING MR
 DATE COMPLETED 1-25-06

GENERAL INSTRUCTIONS

Timing:	A performance review is to be completed for each salaried-exempt associate annually between January 1 and January 31. It is the responsibility of each supervisor to prepare the performance review.
Procedure:	<p>The associate's performance of assigned tasks and accountabilities should be rated with respect to the performance factors below, utilizing the following scale:</p> <p>S - Superior: Consistently and substantially exceeds major job requirements. Accomplishments are extraordinary as demonstrated by job results.</p> <p>AR - Above Requirements: Exceeds most job requirements. Job results are measurably higher than job requirements.</p> <p>MR - Meets Requirements: Meets major job requirements. Performance is fully acceptable as demonstrated by job results.</p> <p>F - Fair: Performance is slightly below what is expected in the position. Performance needs improvement.</p> <p>M - Marginal: Falls to meet most job requirements. Performance requires immediate, substantial and sustained improvement.</p>
Acknowledgement:	This appraisal has been reviewed with the associate. It is understood that the signature does not necessarily indicate agreement with the content of the review.

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WESTPOINT STEVENS

PAGE 02

I. MANAGEMENT SKILLS EVALUATION

After carefully evaluating individual's work performance in relation to current job requirements, check the appropriate box to indicate the associate's performance. Explanations of terms appear at the bottom of this page. If not applicable, indicate N/A.

Management Skills (Evaluate the first two skills categories only if the associate has supervisory responsibility.)	RATING					Comments or Supportive Details This section must be completed for each rating.
	SUPERIOR	ABOVE REQUIREMENTS	MEETS REQUIREMENTS	FAIR	MARGINAL	
DEVELOPMENT OF SUBORDINATES Ability to prepare subordinates for current positions, as well as for positions of greater responsibility.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Keeps associates well informed of what is expected of them
SUPERVISION/MANAGEMENT SKILLS Ability to direct and control subordinates; ability to motivate and effectively coordinate the efforts of work groups.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does a good job motivating associates
STRATEGIC PLANNING/ORGANIZING Ability to establish courses of action to accomplish specific goals. Allocation of resources; including setting priorities, meeting deadlines, anticipating problems.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does a good job keeping up with priorities
JOB KNOWLEDGE Technical knowledge and the level of competence required to be successful in the incumbent position.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Very good job knowledge of the job.
QUALITY Conformance to requirements re accuracy, thoroughness, acceptability of work performed.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Always room for better quality.
COMMUNICATION SKILLS Ability to clearly and persuasively express concepts, both orally and in writing; also, ability to listen effectively, grasp ideas and instructions.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Communicates well with associates.
INTERPERSONAL SKILLS Ability to work cooperatively with subordinates, peers, superiors, and external contacts; ability to influence others without direct authority.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Associate really respects him as a supervisor
ADMINISTRATIVE Ability to satisfy all administrative components of position (i.e. timeliness, completeness, accuracy, documentation.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Keeps up with paperwork and reviews.
LEARNING CAPABILITIES; OTHER RELEVANT SKILLS	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Very able to adapt to changes.

PERFORMANCE EVALUATION RATING

Superior Consistently and substantially exceeds major job requirements. Accomplishments are extraordinary as demonstrated by job results.

Above Requirements Exceeds most job requirements. Job results are measurably higher than job requirements.

Meets Requirements Meets major job requirements. Performance is fully acceptable as demonstrated by job results.

Fair Performance is slightly below what is expected in the position. Performance needs improvement.

Marginal Fails to meet most job requirements. Performance requires immediate, substantial and sustained improvement.

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WESTPOINT STEVENS

PAGE 03

II. ANNUAL ACCOMPLISHMENT SUMMARY DEVELOPMENT REVIEW

(This page to be completed by immediate manager)

A. PERFORMANCE SUMMARY AND TREND (Summarize your view of associate's accomplishments versus goals in the past year and indicate performance.)

Zero lost time accidents
 9 Recordables for the department
 Incident rate for department was 4.02

B. STRENGTHS/GROWTH (Describe associates strengths and how they changed in the past year.)

Has allot of experience in the Packaging department. Has the respect of his associates as a Supervisor.

C. DEVELOPMENTAL RECOMMENDATIONS

1. List Developmental Objectives and/or Skills To Improve based on overall performance rating and evaluation of management skills.
2. For any deficiencies noted on Management Skill Evaluation, planned development activity must be detailed here.
3. Developmental Objectives or Skills To Improve should be directly transferred onto next year's Objective Setting page.

Developmental Objectives/Skills To Improve	Planned Developmental Activity
House keeping	Continue to monitor
Associate Training	Continue to observe associates for areas of improvement.

D. FUTURE CAREER DISCUSSION

Discuss associate's career goals and objectives. List any positions in which the associate expresses an interest. Refer to Human Resources Manager if indicated.

This job means allot to Billy Wayne and he enjoys it very much.

E. OVERALL PERFORMANCE RATING☐ Superior

re Requirements

☒ Meets Requirements☐ Fair☐ Marginal**F. ASSOCIATE'S COMMENTS**

Happy in current position

G. SIGNATURES

Immediate Manager

Reviewing Manager

Date

Date

☐ Check if additional comments attached

Associate's Initials

Indicates that he/she read this appraisal and it has been discussed with him/her.

Date

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3345854207

WESTPOINT STEVENS

PAGE 04

ANNUAL ACCOMPLISHMENT SUMMARY DEVELOPMENT REVIEW

(This page to be completed by associate)

Strictly Private**A. ACCOMPLISHMENT SUMMARY** (Summarize your accomplishments versus goals in the past year.)

Receivable - Set Goal 0 Had 0
 Lost Time Accident - Set Goal 0 Had 0
 Incident Rate - Set Goal 1.2 Had 1.5
 Absentism Set Goal 1.3 Had 1.29

B. STRENGTHS/GROWTH (Describe your strengths and how they changed in the past year.)

1) ABLE TO TALK TO ASSOCIATES AND ASSOCIATES KNOW THEY WILL BE TREATED FAIR.
 2) WORK WITH OTHER SUPERVISORS AND HELP WHERE I AM NEEDED
 3) SAFETY - REALLY STRESS SAFETY TO ALL
 4) PREPARING AHEAD OF TIME FOR MY SHIFT

C. IMPROVEMENT/DEVELOPMENT NEEDS/PLANS (Identify most critical needs and responsive action plans.)

Need A School To Help Reduce Cost AND Running OF MACHINES.

D. JOB/CAREER INTEREST (If interested in a job change, list preference including position title, business unit, location. Specify any geographic limitations, desired timing, etc. Also describe long-term interest.)

HAPPY IN MY POSITION - WILL WORK WHERE THE COMPANY NEEDS ME.

Billy Brereton
 Associate's Signature

1-25-06
 Date

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WESTPOINT STEVENS

PAGE 06



WESTPOINT HOME

PLANNED PERSONAL OBJECTIVES AND ACCOMPLISHMENTS FOR SALARIED-EXEMPT ASSOCIATES

Billy Wayne Bedsole
Associate's Name (last, first, middle initial)

1-25-06
Date

Wrap & Pack Supervisor
Title

Best Products / Shipping
Division and/or Business Unit

Planned Personal Objective Form 1-1-06 to 12-31-06

- 1) Efficiency Goal 95% end of 1st Qtr, 100% for 2nd, 3rd, 4th
 2) Incident Rate 2% or less for Dept.
 3) Reduce cost per doc by .15¢ by end of 4th Qtr.
 A. Goal of .68¢ 1st Qtr, .61¢ end of 2nd, .55¢ end of 3rd, .55¢ end of 4th
 B. Zero lost Time accidents for 2006

Billy Bedsole
Associate's Signature

[Signature]
Supervisor/Manager

1-25-06
Date

1-25-06
Date

(Note: All salaried-exempt associates supervising others must include in their goals their efforts in meeting EEO/AAP expectations.)

Please indicate target date for meeting each goal (1st, 2nd, 3rd and 4th quarter).

*Signatures above indicate agreement on goals and objectives at beginning of evaluation period.

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ATTACHMENT 2

PERSONNEL NOTICE

WESTPOINT STEVENS

☐ INITIATED BY COMPANY☐ AT REQUEST OF EMPLOYEE

EMPLOYEE CLARA L. Thomas	EMPLOYEE NUMBER 33257	TYPE OF NOTICE 1 - EMPLOYEE PROBLEM 2 - EMPLOYEE COMPLAINT 3 - NOTICE OF CHANGE 4 - REQUEST FOR CHANGE 5 - EMPLOYEE REQUEST 6 - COMMENDATION 7 - MISCELLANEOUS NOTICE
FACILITY 044	ROOM 65	
SUPERVISOR Mike Estrich	SHIFT 1st	
EFFECTIVE DATE OF CHANGE 1.9.06	NOTICE DATE 1.4.06	
SITUATION IN BRIEF		

Department, Job, Shift, or Rate Change

DETAILS

Present

Proposed

Dept.# **65**Dept. No. **65**Dept. Name **PACKING**Dept. Name **PACKING**Shift **1st**Shift **1st**Job # **6305**Job # **65-101**Job Title **Supervisor**Job Title **Lead Person**Rate **SALARIED**Rate **~~11.42~~ 11.42**

JSD

The following to be completed when employee changes job:

DSD

The Job Hazard Study for a _____ has

FSD

been reviewed with me. _____

Employee's Signature

ACTION TAKEN

Change due to:

Circle OneBid SheetDisplacementRecallOther (explain)

CLARA'S SUPERVISOR JOB WAS ELIMINATED ON 1st Shift. She had option of Supervisor 3rd (65) or Lead Person on 1st - She chose Lead Person

DISTRIBUTION

- ☐ COST DEPT.
☐ DEPT. FILES
☐ INDUSTRIAL RELATIONS
☐ OFFICE MANAGER
☐ PAYROLL DEPT.
☐ PERSONNEL DEPT.

- ☐ VICE-PRESIDENT
☐ MANAGER
☐ ASST. MANAGER
☐ OVERSEER
☐ PRODUCTION DEPT.
☐ SUPPLY ROOM

RECOMMENDED BY

DEPARTMENT HEAD

OTHER

SIGNATURE

DATE

Mike Estrich 1-4-06

F.H. Mujir 1.4.06

CLARA THOMAS 1-4-06

TAB 8

1

3

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION
CASE NUMBER: 1:06-CV-874-MHT
CLAUDE GENE LEE, SR.,
Plaintiff,
vs.
WESTPOINT HOME, INC.,
Defendant.

DEPOSITION OF FRANK LAMONT MAJOR, III

In accordance with Rule 5(d) of
The Alabama Rules of Civil Procedure as
Amended, effective May 15, 1988, I,
Virginia Denese Barrett, am hereby
delivering to Mr. Jay E. Tidwell, the
original transcript of the oral testimony
taken on the 29th day of August, 2007,
along with exhibits.

Please be advised that this is
the same and not retained by the Court
Reporter, nor filed with the Court.

force and effect as if full compliance had
been had with all laws and rules of Court
relating to the taking of depositions.

IT IS FURTHER STIPULATED AND
AGREED that it shall not be necessary for
any objections except as to form or leading
questions, and that counsel for the parties
may make objections and assign grounds at
the time of the trial, or at the time said
deposition is offered in evidence, or prior
thereto.

IT IS FURTHER STIPULATED AND
AGREED that the notice of filing of the
deposition by the Commissioner is waived.

2

4

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION
CASE NUMBER: 1:06-CV-874-MHT
CLAUDE GENE LEE, SR.
Plaintiff,
vs.
WESTPOINT HOME, INC.,
Defendant.

S T I P U L A T I O N

IT IS STIPULATED AND AGREED by
and between the parties through their
respective counsel, that the deposition of
FRANK LAMONT MAJOR, III, may be taken
before Virginia Denese Barrett,
Commissioner, at the offices of Balch and
Bingham, 105 Tallapoosa Street, Montgomery,
Alabama, on the 29th day of August, 2007.

IT IS FURTHER STIPULATED AND
AGREED that the signature to and the
reading of the deposition by the witness is
waived, the deposition to have the same

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EXAMINATION BY:	PAGE NUMBER:
Mr. Tidwell	6
Ms. Pate	159
Mr. Tidell	165

EXHIBIT INDEX

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

CASE NUMBER: 1:06-CV-874-MHT

CLAUDE GENE LEE, SR.

Plaintiff,

vs.

WESTPOINT HOME, INC.,

Defendant.

BEFORE:

VIRGINIA DENESE BARRETT, Commissioner

HAND ARENDALL, by Mr. Jay E.

Tidwell, 1200 Park Place Tower, 2001 Park
Place North, Birmingham, Alabama 35203,
appearing on behalf of the Plaintiff.

BALCH & BINGHAM, by Ms. Kelly F.

Pate, 105 Tallapoosa Street, Suite 200,
Montgomery, Alabama 36104, appearing on
behalf of the Defendant.

A. No, sir.

Q. And you're not under the
influence of drugs or alcohol or anything
like that?

A. No, sir.

Q. Have you ever given a
deposition before?

A. Not sure. It's been a while.
I think I was at one, but I'm not sure if
they actually took mine. So no.

Q. Let me before I dig into that a
little bit more, would you please state
your full name for the record?

A. Frank Lamont Major, III.

Q. And where do you live,
Mr. Major?

A. Dothan, Alabama.

Q. What is your address?

A. 927 Honeysuckle Road, Apartment
G-81. That's Dothan, Alabama, 36305.

Q. And what's your date of birth?

A. November 22nd, 1974.

Q. Now, are you from Dothan? Have

6

8

FRANK LAMONT MAJOR, III

The witness, having been first
duly sworn or affirmed to speak the truth,
the whole truth, and nothing but the truth,
testified as follows:

EXAMINATION

BY MR. TIDWELL:

Q. Mr. Major, I'm Jay Tidwell. We
met right before we started this
deposition. And just I guess basic -- some
basic instructions. If you don't
understand what I'm saying or the question
I'm asking you, just ask me to rephrase it
and I'll be glad to try my best to phrase
it another way.

A. Okay.

Q. If you need to take a break at
any time, just let me know and we'll be
glad to take a break.

A. Okay.

Q. Are you on any medication that
would affect your memory or anything like
that?

you always lived there?

A. No.

Q. Where did you live before
Dothan?

A. South Carolina.

Q. Did you go to college?

A. Yes.

Q. Where did you go?

A. Clemson.

Q. Clemson Tiger. When did you
graduate or did you graduate?

A. No.

Q. When was your last year you
attended?

A. '96.

Q. What was the last grade you
completed I guess or how many years did you
attend Clemson?

A. Two and a half.

Q. Two and a half. Where did you
graduate from high school?

A. Cross High. That's in Cross,
South Carolina.

9

11

1 Q. When did you graduate from high
2 school?
3 A. 1993.
4 Q. And what was your major at
5 Clemson?
6 A. Electrical engineering.
7 Q. Why did you drop out after two
8 and a half years?
9 A. Didn't actually drop out. I
10 just -- money problems.
11 Q. Couldn't afford to go?
12 A. Yeah.
13 Q. Did you go to any other
14 colleges?
15 A. No.
16 Q. Any other training, seminars,
17 anything like that that you've attended?
18 MS. PATE: Object to the form.
19 THE WITNESS: Say it again.
20 MS. PATE: Go ahead.
21 A. Other than just job training.
22 Q. So you've never gone to any I
23 guess junior colleges --

1 Q. So you started in 1996 as a
2 machine operator. How long did you work in
3 the Clemson Westpoint?
4 A. Up until '05.
5 Q. So you worked there from 1996
6 to 2005?
7 A. Yes.
8 Q. Continuous?
9 A. Yes.
10 Q. What are all the positions
11 you've held there?
12 A. Well, I was a data entry clerk.
13 Q. If you can, try to give me -- I
14 know it might be difficult -- but a time
15 frame for when you were at each position
16 and how long you stayed there?
17 A. That's going to be kind of
18 hard.
19 Q. Just to the best -- I mean,
20 just to the best of your knowledge.
21 A. Let's see. Machine operator
22 first and then maybe a year later lift
23 truck operator. Then maybe a year later

10

12

1 A. No.
2 Q. -- or trade schools or anything
3 like that?
4 A. No.
5 Q. What did you do after you left
6 Clemson?
7 A. I was working at Westpoint.
8 Q. Were you working at Westpoint
9 in South Carolina?
10 A. Yeah. In Clemson, South
11 Carolina.
12 Q. Did you do that while you were
13 in school?
14 A. Yes. Briefly.
15 Q. When did you start working?
16 A. At Westpoint?
17 Q. For Westpoint, yeah.
18 A. I want to say April of '96.
19 Q. What did you do?
20 A. I was a machine operator when I
21 first started.
22 Q. What department?
23 A. Packaging.

1 data entry clerk. Let's see. And then
2 after that I was a training instructor and
3 substitute supervisor. So I guess that was
4 roughly around -- might have been another
5 year or two later.
6 Q. Training instructor and
7 substitute?
8 A. Back-up supervisor.
9 Q. Are those all the positions
10 you've held?
11 A. No. Then in -- I want to say
12 in 2000 I became the packaging shift
13 supervisor. And in 2003 or '4 -- I'm not a
14 hundred percent sure -- I became the
15 assistant human resource manager and safety
16 director.
17 Q. In 2003, 2004, you did what,
18 now?
19 A. Assistant human resource
20 director. Well, assistant human resource
21 manager and safety manager. You need up to
22 presently what I'm doing?
23 Q. Well, let's stop at South

13

15

1 Carolina first.

2 A. Okay.

3 Q. Until you --

4 A. That's it in South Carolina.

5 Q. Okay. So your last position
6 you held in South Carolina was assistant HR
7 manager and safety manager?

8 A. Yes.

9 Q. Okay. How is the plant at
10 South Carolina, how does it compare to the
11 plant in Dothan or outside Dothan in terms
12 of size, in terms of departments?

13 A. I mean, it consists basically
14 of the same departments. Just I think
15 Clemson may have been a little bit bigger
16 than Abbeville department wise.

17 Q. You listed about four or five
18 or six different jobs you held while in
19 South Carolina. Did you -- were they all
20 promotions?

21 A. The hourly jobs, I mean, in a
22 sense, yes.

23 Q. Okay. Let's just start with

1 Q. Was that a promotion?

2 A. Yes, but not pay wise. It was
3 more or less, like I said, a training
4 instructor, and I filled in for the
5 supervisor in their absence. But yeah, it
6 was a promotion. It was a different -- it
7 was a pay change. When I was instructing,
8 I think the pay may have been a dollar and
9 a half more when I was instructing.

10 Q. What did you -- what did you
11 instruct or who?

12 A. Everybody in the department.
13 The machine operators, the lift truck
14 drivers. Whatever job was in that
15 department, I would -- was the training
16 instructor for those, for new employees and
17 the retraining of old employees, also.

18 Q. So you trained people on the
19 machines. You trained people, the lift
20 truck operators?

21 A. Uh-huh.

22 Q. You trained -- did you train
23 managers or just the --

14

16

1 the machine operator. How much were you
2 making as a machine operator?

3 A. When I started off, it was
4 maybe a little over nine an hour. Then the
5 lift truck was more or less a lateral, I
6 think, move.

7 Q. Why did you move?

8 A. Just couldn't see myself doing
9 -- operating machinery. Eager to learn
10 something different.

11 Q. Okay. And then you moved to
12 data entry clerk?

13 A. Uh-huh.

14 Q. Is that a promotion?

15 A. Yes, it was. I think the data
16 entry clerk may have made I'm going to say
17 roughly almost ten dollars an hour or
18 something like that. I'm not a hundred
19 percent sure on the wages.

20 Q. Right. And then you went from
21 the data entry to training instructor and
22 back-up supervisor?

23 A. Yes.

1 A. The hourly associates.

2 Q. Okay. And was this training in
3 regards to human resources issues, or was
4 it strictly training regarding how to
5 operate a machine or how to operate a lift
6 truck or how to --

7 A. It was job specific, yeah.

8 Q. So you didn't train people on,
9 for example, race discrimination policies
10 and procedures or anything like that?

11 A. No, not in that position.

12 Q. Have you ever trained anybody
13 in that regard?

14 A. Other than just like maybe
15 monthly safety topics as a supervisor,
16 dealing with sexual harassment or just
17 policies.

18 Q. So you would train people on it
19 or you would just review?

20 A. The policy with them.

21 Q. With employees?

22 A. Yes.

23 Q. Now, you moved to -- in 2000

17

19

1 you said to packaging shift supervisor?

2 A. Yes.

3 Q. What department? I mean, what
4 shift was that?

5 A. Second shift.

6 Q. How much were you making?

7 A. It was salary. I don't even
8 remember. I want to say at the time it was
9 roughly thirty-five maybe thousand a year.

10 Q. And then you went to the
11 associate human resource manager and safety
12 manager?

13 A. Assistant, yeah.

14 Q. Assistant safety manager, too?

15 A. No. Assistant HR manager.

16 Q. Right.

17 A. Yeah. And safety manager.

18 Q. Was that a promotion?

19 A. Yes.

20 Q. How much were you making there?

21 A. I want to say -- let me think.
22 Like maybe -- I want to say maybe like
23 forty, forty-two, something like that.

1 along the line that under Westpoint, we
2 didn't discriminate against someone because
3 of race, color, religion.

4 Q. Were there any mechanisms in
5 place to ensure that people weren't
6 discriminated against based on race?

7 A. Meaning? When you say
8 mechanisms?

9 Q. Policies or procedures in place
10 that the company did for their procedures
11 of reporting, for example, race
12 discriminations. How did the company
13 handle issues about race discrimination if
14 a complaint was to be reported?

15 MS. PATE: Object to the form.

16 You can answer.

17 A. We have what we call an open
18 door policy, that if an associate feels as
19 though they're being harassed or
20 discriminated against, then it's, I guess,
21 a chain of command to go through. And each
22 situation would be investigated as far as
23 on the HR side and upper management side.

18

20

1 Q. What were your job duties in
2 that assistant HR manager and then safety
3 manager?

4 A. I was in charge of the plant
5 safety program and I also assisted the HR
6 manager in I guess personnel duties. I
7 also conducted employee orientation.
8 That's -- basically that's it.

9 Q. Did you hand out manuals,
10 policies and all that?

11 A. Uh-huh. Reviewed policies with
12 them, also.

13 Q. Did y'all have a race
14 discrimination policy?

15 A. Specifically?

16 Q. Uh-huh.

17 A. Yes. It was -- I can't call it
18 off the top of my head, but the policy
19 deals with discrimination, yes.

20 Q. What was the policy?

21 A. To quote it, I couldn't quote
22 it. I mean, it was -- I'm not sure. I
23 don't know how to phrase it. It was more

1 Q. What is the chain of command to
2 go through?

3 A. You -- if you're an hourly
4 associate, if you have a complaint of any
5 kind, you'll report it to your supervisor.
6 And if you're -- if you're not comfortable
7 with your supervisor, the next chain of
8 command would be the department manager.
9 Then from the department manager to --
10 excuse me -- the human resource manager and
11 from human resource manager to the plant
12 manager.

13 Q. I'm going to come back to that.
14 But let's move to how did you end up going
15 to the Abbeville plant?

16 A. When they announced the Clemson
17 plant was closing, I guess there was
18 opportunities to transfer to different
19 plants. And I took the opportunity to
20 transfer here.

21 Q. When did the Clemson plant
22 close?

23 A. It was announced I believe in

21

23

1 March of '05. And I'm not a hundred
2 percent sure. I wasn't the last person
3 left as far as when it closed down,
4 manufacturing closed totally.

5 Q. So in March of '05, they said,
6 hey, we're going to --

7 A. I think that's when the first
8 layoff started, in March of '05.

9 Q. And there were rumors or did
10 the company come up and say we're going to
11 have to close the plant down?

12 A. No. It was not rumor.

13 Q. The company came out and said
14 it?

15 A. It was announced. I believe it
16 was actually announced in January.

17 Q. When did you leave?

18 A. I left the end of April,
19 beginning of May, '05.

20 Q. Did you go -- when did you
21 start in Abbeville?

22 A. In the beginning of May of '05.

23 Q. So did you take any time off or

1 do with the managers that were already in
2 place, the supervisor and employees, or was
3 this more of how can we rearrange the
4 machinery and things in the plant?

5 A. That was more or less the
6 machinery and the product in the plant.

7 Q. So when you first started as a
8 project manager, you didn't have any
9 oversight over actual employees, so to
10 speak?

11 A. No.

12 Q. Is that correct?

13 A. Yes.

14 Q. What were your hours?

15 A. Oh, some days five thirty to
16 seven thirty some days. Five thirty in the
17 morning to seven thirty in the evening some
18 days. But --

19 Q. So it was mainly a day shift?

20 A. Yeah.

21 Q. Did you ever work at nights?

22 A. Some.

23 Q. Did you ever work during third

22

24

1 anything or do anything in between?

2 A. No.

3 Q. What was your title in the
4 beginning of May?

5 A. Project manager.

6 Q. Project manager?

7 A. Uh-huh.

8 Q. What was your job description
9 or job duties?

10 A. At that time, we were -- I
11 don't know if I want to say outsourcing
12 product from the plant being done at an
13 outside facility. And I was in charge of
14 that and also with just various projects of
15 reconstructing in the Abbeville facility,
16 so to speak.

17 Q. Tell me a little bit more about
18 reconstructing Abbeville.

19 A. Basically, it was reorganizing.
20 Maybe I should have said that.
21 Reorganizing the plant for product storage
22 and better product flow.

23 Q. Now, did this have anything to

1 shift?

2 A. Yeah. Basically five thirty,
3 that is still third shift.

4 Q. Third shift goes off at seven,
5 I guess?

6 A. Yeah.

7 Q. So did you ever work in the
8 third shift other than, you know, maybe
9 five or five thirty to seven?

10 A. During this time?

11 Q. Yes. While you were the
12 project manager.

13 A. I can't remember maybe a couple
14 times coming in at night maybe at two or
15 three o'clock in the morning, but it was
16 something special going on. But on a
17 regular basis, no, other than that five
18 thirty in the morning.

19 Q. While you -- well, let me go
20 back. How long were you a project manager
21 or in that position as project manager?

22 A. I'm not sure. I'm trying to
23 find dates.

25

27

1 Q. It doesn't have to be exact. I
2 mean, was it July? Was it December? Was
3 it November?

4 A. I'm not sure.

5 Q. What was your next -- what was
6 your next position you held?

7 A. The assistant department
8 manager of the packaging department.

9 Q. And that was over the whole
10 packaging department?

11 A. Yeah.

12 Q. Who is the department manager?

13 A. Bob Turner.

14 Q. Was that a promotion to get
15 that job?

16 A. That was a lateral move, yeah.

17 Q. What was your pay as a project
18 manager?

19 A. Well, maybe forty-five,
20 forty-seven, something in that
21 neighborhood.

22 Q. Let me go back real quick. How
23 did you get that job? I know you said that

1 A. He was plant manager.

2 Q. So was he the plant manager
3 over the whole Abbeville plant?

4 A. Yes.

5 Q. So your supervisor -- you
6 talked to your supervisor and let him know
7 you were interested in other jobs within
8 the company, and your supervisor, I guess,
9 for lack of a better word, hooked you up
10 with this plant down here?

11 A. Yes.

12 Q. Okay. You interviewed with
13 Mr. Irving and they offered you the job?

14 A. Not at that time. He gave me a
15 couple of days or -- it might have been a
16 couple days to think about it. And I
17 called him and I guess accepted the job.

18 Q. All right. So let's go back.
19 You went from project manager. You said
20 you started somewhere around in May of '05
21 at the Abbeville plant as a project
22 manager. Then sometime later -- you don't
23 remember when -- but you made a lateral

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1 there were opportunities. Was there a
2 bulletin board up at Clemson? Did they
3 send out a list of job openings, or how did
4 you go from the Clemson plant to
5 specifically the Abbeville plant?

6 A. When -- like I said, when they
7 announced the Clemson plant was closing,
8 they were -- I guess my upper management
9 was trying to get people that were
10 interested in maybe transferring to another
11 facility. And I believe my plant manager
12 may have talked with the plant manager down
13 here. Well, at the Abbeville plant.
14 Excuse me. Somehow I sent them a resume
15 and came down for an interview, and they
16 brought me in as a project manager.

17 Q. Who was that? Who did you
18 interview with down in Abbeville or who
19 brought you in down there?

20 A. Bubba Irving.

21 Q. Bubba Irving?

22 A. Uh-huh.

23 Q. What's his title?

1 move to assistant department manager?

2 A. Yes. I think it was lateral.

3 Q. Okay. And you don't know about
4 when you made that move to assistant?

5 A. (Witness shaking head in the
6 negative.)

7 Q. Do you remember if it was cold
8 outside? Was it still summer?

9 A. I can't -- I can't remember.
10 No.

11 Q. Okay.

12 A. I'm trying to think.

13 Q. What about -- what were your
14 job duties as the assistant department
15 manager?

16 A. Basically I guess other than
17 the obvious reasons, I assisted the
18 department manager. But I was I guess in
19 charge of making sure that the product that
20 flowed through the packaging department was
21 going properly and also responsible to make
22 sure that the rush orders were getting out.

23 Q. Did you have any direct

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1 observation or supervisory or supervision
2 of the shift leaders, shift managers, shift
3 supervisors?

4 A. Yes.

5 Q. Okay. Which ones?

6 A. All of them.

7 Q. So when you were the assistant
8 department manager, you supervised all the
9 shift managers?

10 A. No. Observed all the shift
11 managers.

12 Q. Okay. So did you rotate your
13 work days or your work hours I mean,
14 meaning did you some days observe first
15 shift, some days observe second shift, some
16 days come in and observe third shift?

17 A. On a normal day, I was there on
18 all three shifts every day.

19 Q. When does first shift run?

20 A. From seven to three.

21 Q. When is second shift?

22 A. Three to seven.

23 Q. And then third shift is eleven

1 Q. Was your -- let me rephrase
2 that. In your job as assistant department
3 manager, did you interact with the shift
4 supervisors or shift leaders?

5 A. Yes.

6 Q. And in what capacity?

7 A. Basically to the point to where
8 it was why things -- whatever was going on
9 in the department.

10 Q. Now, would you -- would you
11 consider the assistant department manager a
12 supervisor over the shift supervisors?

13 A. No.

14 Q. So I guess what I'm asking is
15 at this time, would you be called Lee's
16 supervisor?

17 A. No.

18 Q. Who would be called Lee's
19 supervisor at this time?

20 A. The department manager.

21 Q. So that was Bob Turner?

22 A. Yes.

23 Q. So you didn't have any

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1 to seven?

2 A. Yes.

3 Q. So I don't guess I can
4 understand how you were there. You were
5 there twenty-four hours a day?

6 A. No.

7 Q. Or you were there just during a
8 portion?

9 A. A portion. But most of my time
10 was spent on first shift.

11 Q. So explain to me when -- like
12 on a normal day when you would get there
13 and when you would leave.

14 A. During this time?

15 Q. Uh-huh. When you were
16 assistant department manager.

17 A. Between five and five thirty
18 a.m. until about seven, seven thirty p.m.

19 Q. So that would be a typical day.
20 You'd get to work about five, five thirty
21 a.m. and you would leave about seven or
22 seven thirty p.m.?

23 A. During that time, yes.

1 supervisory capacity over the shift leaders
2 at this time?

3 A. No. Well, in the absence of
4 Bob Turner, then I would.

5 Q. Were there ever circumstances
6 when you were -- when Bob Turner wasn't
7 there or even if Bob Turner was there when
8 you had to discipline supervisors at that
9 time?

10 A. No.

11 Q. Did you ever talk to them,
12 critique them about the way they managed or
13 the way they worked at this time?

14 A. Job performance, yes.

15 Q. Okay. So you did talk to them
16 about job performance but you never
17 disciplined?

18 A. Yes.

19 Q. Okay. And what would you --
20 what was your role? Was it evaluating job
21 performance or what?

22 A. Yes.

23 Q. So as the assistant department

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1 manager, you would evaluate the shift
2 supervisor's job performance?

3 A. Yes. But that wasn't -- that
4 was not just the only thing I did as an
5 assistant department manager.

6 Q. And I guess the -- like you
7 stated earlier, your main time being there
8 was during first shift?

9 A. Yes.

10 Q. And you caught an hour and a
11 half or so of third shift and you caught an
12 hour and a half or more of second shift?

13 A. Yes.

14 Q. So you -- I guess it's fair to
15 say during this period of time, you didn't
16 -- the majority of the time Claude Lee was
17 the third shift supervisor, you weren't
18 there?

19 MS. PATE: Object to the form.

20 Go ahead.

21 A. I guess if you're saying the
22 majority of the shift, yes.

23 Q. Yes. That's what I'm saying.

1 minutes to another hour.

2 Q. Okay. And how often -- how
3 frequently?

4 A. Oh, that's every day.

5 Q. Okay. So Claude's shift then
6 generally didn't end? Although the third
7 shift was over at seven, he usually didn't
8 leave until eight, seven thirty, eight,
9 something like that?

10 A. Yes.

11 Q. Okay. So let me rephrase that.
12 The only observation that you would have of
13 Mr. Lee would be from five or five thirty
14 when they were -- depending on what day
15 whenever you got in that morning until
16 seven thirty or eight o'clock that morning?

17 A. Yes.

18 MS. PATE: During that time
19 period.

20 A. Yes. During that time period.

21 Q. Right. During the time period
22 you were the assistant department manager?

23 A. Yes.

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1 We've already said that his shift started
2 at eleven p.m. and ended at seven a.m.

3 A. Uh-huh.

4 Q. And you stated on most or
5 normal days you would get there at five or
6 five thirty?

7 A. Uh-huh.

8 Q. So most of the time, the only
9 opportunity you would have to observe
10 Claude would be from five or five thirty to
11 seven; is that correct?

12 A. No.

13 Q. Tell me why that's not correct.

14 A. Because on given days, they
15 would stay past seven as far as paperwork
16 and reviewing.

17 Q. As far as doing paperwork?

18 A. Yeah. And reviewing with the
19 department manager what went on the night
20 before or even reviewing with me what went
21 on the night before.

22 Q. How long would they stay?

23 A. Sometimes anywhere from thirty

1 Q. How long were you the assistant
2 department manager?

3 A. I'm not sure because, like I
4 said, I can't remember when I started -- I
5 mean when I changed over to that. So ...

6 Q. What was your position after
7 that?

8 A. Then I was the acting
9 department manager.

10 Q. So you replaced Bob Turner?

11 A. Yes.

12 Q. What happened with Bob Turner?

13 A. Not sure.

14 Q. Was he fired?

15 A. Not sure.

16 Q. So you don't know if he left
17 voluntarily or if he was fired?

18 A. Not sure.

19 Q. When did you take over as
20 department manager?

21 A. I want to say maybe December
22 '05.

23 Q. Okay. In your declaration that

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1 you did for your attorneys for I guess
2 their motion for summary judgment brief,
3 you state that from December 15th, 2005 to
4 February 20th, 2006, I was Claude Lee's
5 direct supervisor. Is that the time period
6 you're saying that you were the department
7 manager?

8 A. Yes. Yes.

9 Q. So previous to becoming the
10 department manager, you were not Claude
11 Lee's direct supervisor; is that correct?

12 A. Correct.

13 Q. And I think we've already
14 stated, but Bob Turner was Claude Lee's
15 direct supervisor?

16 A. Yes.

17 Q. So it's safe to say that your
18 direct supervision of Mr. Lee started on or
19 about December 15th of 2005?

20 A. Yes.

21 Q. Prior to December 15th of 2005,
22 did you and Mr. Turner ever talk about
23 Mr. Lee?

1 more or less about the entire department.
2 As far as singling out Claude from the rest
3 of them, I couldn't say when exactly.

4 Q. So are you saying that y'all
5 had conversations regarding the entire
6 department's poor job performance, not
7 specifically Mr. Lee's?

8 A. It may have been specific
9 problems relating to third shift compared
10 to second and first shift, but actual
11 conversations, I don't remember.

12 Q. I don't think I'm following
13 you. My initial question was did you and
14 Mr. Turner ever have a specific
15 conversation about not the whole department
16 but about Mr. Lee's poor job performance?

17 A. Yes.

18 Q. Okay. And I think you've
19 stated you can't recall the exact date for
20 that.

21 A. Exactly.

22 Q. Can you tell me what month it
23 was in?

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1 A. Yes.

2 Q. On what occasion?

3 A. It was not just him. It was
4 about all the supervisors. I mean, from --

5 Q. And what were those
6 conversations?

7 A. Just basic as far as, like I
8 said, job performance or this order didn't
9 get out, this order didn't get out. You
10 know, work flow.

11 Q. Right. Other than just
12 standard everyday, Hey, we need to make
13 sure this gets done. This didn't get done
14 yesterday. We've got to do it, did you and
15 Mr. Turner ever specifically have a
16 conversation about Mr. Lee's poor job
17 performance?

18 A. Yes.

19 Q. When was that?

20 A. As far as a date, I have no
21 idea.

22 Q. About what month?

23 A. I mean, like I said, it was

1 A. No.

2 Q. What was said? Not exact
3 quotes but just generally.

4 A. I can't remember exactly. I
5 mean, I can't.

6 Q. So you remember having a
7 conversation about Mr. Lee's poor
8 performance, but you can't remember why it
9 was poor or what the conversation entailed?

10 MS. PATE: Object to the form.

11 A. I'm -- I believe at that time,
12 like I said, more or less it was -- it was
13 more problems on third shift than it was on
14 second and first.

15 Q. What were the problems?

16 A. As far as the work flow, as far
17 as the associates and their work habits.

18 Q. So you're saying that you and
19 Mr. Turner talked about Mr. Lee and the
20 problems that his shift was having with the
21 work flow and the work habits of I guess
22 the people on the floor?

23 A. Yes.

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1 Q. Okay. What was wrong with
2 their work flow?

3 A. There were I want to say orders
4 not getting ran in the order that they
5 should have. Maybe low production on some
6 lines. High down time on some lines.
7 Housekeeping.

8 Q. Let me go into production since
9 we kind of started that way. Now, you just
10 -- you just said that part of the work flow
11 problem was low production?

12 A. Uh-huh. Some lines.

13 Q. Right. How did Mr. Lee's
14 production compare to first and second
15 shift?

16 A. Total shift production?

17 Q. Yes.

18 A. It was at times higher and at
19 times lower.

20 Q. During your supervision
21 overall, how would it compare? Higher or
22 lower?

23 A. My direct supervision?

1 supervisors being given a personnel notice
2 on or around 12/12 of '05?

3 A. Not to my knowledge. I mean,
4 not that I remember. I don't know.

5 Q. And if you don't remember,
6 that's fine. What I was going to ask is
7 Mr. Lee states that this 12/12/05 personnel
8 notice was more of an informing him and the
9 other supervisors that the shift
10 supervisors were now required to meet a
11 hundred percent production requirement. Do
12 you remember -- recall anything regarding
13 notifying shift supervisors about that?

14 MS. PATE: Object to the form.

15 A. Exactly, no. I mean, we talked
16 to them, yes, about meeting a hundred
17 percent efficiency, yes. But the exact
18 date, the exact conversation, no.

19 Q. Well, that's -- yeah. I'm not
20 asking you the exact date. I'm just asking
21 you if you remember talking with -- or Bob
22 Turner talking with all the shift
23 supervisors about them being required to

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1 Q. Uh-huh.

2 A. It was back and forth. I mean,
3 certain weeks it will -- I mean, you can
4 have -- I mean, to my memory, I mean, it
5 was back and forth just like all the shifts
6 were back and forth.

7 Q. Okay. Did you talk to the
8 other supervisors about their low
9 production?

10 A. Yes.

11 Q. Did you talk to Mr. Lee about
12 his low production?

13 A. Yes.

14 Q. I believe there was a December
15 meeting -- and I don't think you
16 participated in it -- with Bob Turner and
17 Mr. Lee wherein -- let me see if I can find
18 this. Hold on one second. Were you
19 present at the -- Mr. Lee was given a
20 personnel notice on 12/12 of '05. Do you
21 recall anything about that?

22 A. No.

23 Q. Do you recall any of the other

1 meet a hundred percent production
2 efficiency?

3 A. Yes.

4 Q. Okay. You do remember that?

5 A. Yes. I'm -- yes.

6 Q. And that talk was to all the
7 shift supervisors?

8 A. Yes.

9 Q. Who were the other two shift
10 supervisors at that time?

11 A. Mike Etheridge -- Etheridge and
12 Billy Wayne Bedsole.

13 Q. Now, you admit that Mr. Lee's
14 department, the third shift, had a high or
15 a fairly high efficiency rating?

16 A. At certain times, yes.

17 Q. Well, your declaration doesn't
18 say at certain times. It just says
19 although Mr. Lee's department had fairly
20 high efficiency reports?

21 A. Uh-huh.

22 Q. So you admit that he had high
23 efficiency reports?

1 A. Yes.

2 Q. You go on to say that while
3 meeting or exceeding production standards
4 was certainly important, Westpoint needed
5 to have supervisors who were willing and
6 able to take charge, implement and enforce
7 new work methods and help move the company
8 toward the goal of becoming a stronger
9 industry competitor. What do you mean by
10 that?

11 A. With -- okay. The efficiency,
12 yes, was a big part of it. But it was --
13 reasons for high efficiency could vary.
14 Okay. And I think one of the biggest
15 things that we were -- well, that the
16 company was pressing was that okay, yeah,
17 you've got a hundred percent efficiency,
18 but how much stuff is going out of the
19 door. Understand? And it was more or
20 less, yes, efficiency had a lot to do with
21 it. But it was accountability. It was
22 associates not wasting time, running rush
23 orders.

1 A. At this present time?

2 Q. Yes.

3 A. Maybe five or ten less.

4 Q. Okay.

5 A. I mean, because, at this time,
6 it was -- I mean, we had work for days.

7 Q. I guess to answer the question,
8 he did have less employees?

9 A. Yes.

10 Q. Okay. Go ahead. I didn't mean
11 to interrupt you. But you were telling me
12 how a shift can have a high production
13 efficiency but yet also have workers
14 standing around doing nothing?

15 A. Okay. The efficiency is -- is
16 also based on the amount of hours that a
17 line runs. Okay. Each line has a standard
18 efficiency to meet within eight hours.
19 Now, if a line runs two hours out of eight
20 hours and the efficiency for that two hours
21 -- well, let's say if you was expected to
22 put out two hundred units in two hours,
23 well, in two hours you put out six hundred

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1 Q. Maybe it's the way y'all
2 calculate efficiency and production
3 efficiency. But it doesn't seem to fit
4 that you can have a high efficiency and
5 then you can have workers not doing
6 anything. Can you explain that to me?

7 A. Yes.

8 Q. Okay.

9 A. Okay. At this time it was
10 anywhere from maybe nine to twelve lines
11 running.

12 Q. Let me stop you for one second.
13 Are you talking specifically about
14 Mr. Lee's third shift, or are you talking
15 about just in general?

16 A. Third shift.

17 Q. Okay.

18 A. Okay. Well, I don't know if
19 it's -- because it ran the same amount of
20 lines on all three shifts.

21 Q. Isn't it true that Mr. Lee's
22 shift normally did not have as many
23 employees as the other shifts?

1 units. Your efficiency was -- and for
2 those two hours, you didn't run the other
3 six on that line. Those two hours would be
4 what your efficiency would be based on.

5 Q. On what you were running?

6 A. Yes.

7 Q. Right.

8 A. And in certain days -- I mean,
9 certain weeks, in a normal forty hour week,
10 you may have only ran that line twenty
11 hours out of that forty hour week. But
12 that efficiency was still figured in for
13 that entire week.

14 Q. So you're saying an efficiency
15 is only calculated if the line is running?

16 A. Yes.

17 Q. So are you now saying that
18 Claude Lee would have lines that weren't
19 running?

20 A. Down time.

21 Q. And did you attribute any of
22 that down time to him having five to ten
23 less employees than the other white

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1 supervisors?

2 A. No.

3 Q. Why?

4 A. Because, like I said, on an
5 average -- okay. I guess to go back and
6 say I can't a hundred percent say that, I
7 guess, given the total of people, how many
8 people less that he had than the other two
9 shifts. Okay. But let's see. Let me see
10 how can I say this. It all depends on the
11 product that you're running and the time
12 that you run that product.

13 Q. What do you mean the product?
14 Would certain product require more people?

15 A. Yes. Sometimes. Yes.

16 Q. Now, how many -- how many
17 people does it take to run a line?

18 A. It depends.

19 Q. On what?

20 A. The product.

21 Q. Okay. Tell me for the
22 different products how many people it takes
23 to run a line.

1 been -- I don't know what you're saying I
2 guess is what I'm getting at.

3 A. I guess what I was trying to
4 say is just because the efficiency is, like
5 I say, a hundred percent or more, it
6 doesn't mean that more product went out the
7 door.

8 Q. Right. I understand that.
9 Because you were saying that the efficiency
10 only measures the lines that are run?

11 A. Uh-huh.

12 Q. So if you've got a group of
13 people that are sitting there doing
14 nothing, it's not affecting your
15 efficiency. Is that what you're saying?

16 A. No. Let me see if I can
17 explain it some more.

18 Q. I guess I'm way lost.

19 A. All right. The efficiency is
20 figured through the entire department.
21 Okay. If -- just an example, if line one
22 is running over a hundred percent
23 efficiency and then line three is running

50

1 A. You've got -- we have certain
2 lines that requires four people to run a
3 line and sometimes six people to run that
4 same line. And like I said, the line could
5 be ran with less people, yes. There are
6 certain lines that requires three people.
7 Certain lines that requires maybe seven,
8 eight, sometimes ten people.

9 Q. So are you saying that Claude
10 had sufficient people to run the lines? He
11 just wasn't ensuring that his employees
12 were running the line?

13 A. Not saying that exactly.

14 Q. Tell me what you're saying.
15 Claude's production efficiency reports, at
16 least the ones we've looked at and analyzed
17 -- and we have a couple here -- show that
18 he was producing more than Mike Etheridge
19 or his production efficiency was better
20 than Mike Etheridge and Billy Bedsole's.
21 But yet you're saying that his production
22 might not -- even though his efficiency was
23 better, that his production might not have

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1 less than a hundred percent efficiency,
2 with the average of all the lines, that
3 line one's efficiency could bring up line
4 three's efficiency.

5 Q. The reports I have show line
6 one at the end of one week and it gives an
7 efficiency, a production efficiency,
8 ninety-five or a hundred percent, whatever
9 it is.

10 A. Uh-huh.

11 Q. Okay. Line two -- I mean not
12 line. Shift one, shift two and shift
13 three, it's also broken down per machine
14 and all that. But the totals that I'm
15 looking at and I'm curious about is the
16 production efficiency total for shift one
17 versus shift two versus shift three?

18 A. Uh-huh.

19 Q. Now, I think you were saying
20 that Claude Lee was an ineffective manager
21 is essentially what you've said I think in
22 your declaration. And I'm trying to figure
23 out how he was an ineffective manager when

1 his efficiencies were so high.

2 A. Okay.

3 Q. Especially compared with line
4 -- shift one and shift two. Can you
5 explain that to me?

6 A. Okay. I'm going to try to do
7 this again.

8 Q. Okay.

9 A. All right. Twelve lines in a
10 department. Okay. Let's say Claude was
11 responsible for the first six and his lead
12 was responsible for the second six.

13 Q. Right.

14 A. Now, at the end of the day, the
15 efficiency is totaled from the entire
16 shift.

17 Q. Okay.

18 A. Okay. So if the lead person's
19 lines are doing better than a hundred
20 percent -- and I'm just saying this as an
21 example.

22 Q. I know. I'm listening.

23 A. And Claude's lines are not,

1 But yes.

2 Q. So you did talk to his hourly
3 associates?

4 A. Yes.

5 Q. Okay. And what did you talk to
6 them about?

7 A. I guess just basic things.
8 Maybe how was the night going and maybe
9 from time to time -- well, it's hard to
10 say. I mean --

11 Q. What was their view of Claude
12 as a manager or supervisor?

13 A. Everybody's?

14 Q. Of the shift supervisors you
15 talked to?

16 A. Wait a minute.

17 Q. I mean, not shift supervisors.
18 Of the hourly associates under Claude that
19 you talked to, what was their view about
20 Claude as a manager?

21 A. I mean, from what I can recall,
22 it was -- some of them would more or less
23 -- I'm trying to see how to phrase this.

1 then at the end of the day, the totals are
2 going to be up. My problem with Claude was
3 the fact that when I would ask him -- if I
4 would come in and a line was down or people
5 were standing around and I would ask him
6 why, it's like some days he didn't have an
7 answer for me. So my complaint was never
8 the efficiency. It was more or less his
9 performance towards his hourly associates.
10 Does that make sense?

11 Q. Did you ever talk to any of the
12 hourly associates about him, about his
13 managerial skills or anything like that?
14 Ask them about how they view him?

15 A. Specifically, I -- I'm sure I
16 did, but I can't recall specifically a
17 specific conversation with the associates.

18 Q. So you're saying you're sure
19 you talked to the associates, the hourly
20 associates about Mr. Lee, but you can't
21 ever recall doing it?

22 A. No. I can't recall
23 specifically -- a specific conversation.

1 I'm trying to see how to phrase it. Just I
2 guess to the point he was okay as a
3 supervisor. I'm trying to --

4 Q. Did any of his associates that
5 worked under him on the floor, did they
6 ever come to you complaining that Claude
7 lacked managerial skills, that he wasn't
8 doing what he was supposed to do?

9 A. No.

10 Q. Okay.

11 A. Not that I can remember.

12 Q. Did his shift supervisor ever
13 complain? Well, let me take that back.
14 Shift leader. Did he have a shift leader?

15 A. Yes.

16 Q. Who was his shift leader?

17 A. Michael Lingo.

18 Q. And when was he the shift
19 leader?

20 A. I'm not sure of his dates, but
21 he was --

22 Q. Was he there the whole time you
23 were the department supervisor?

1 A. Yeah.

2 Q. And did Mr. Lingo ever come to
3 you and tell you that Mr. Lee wasn't doing
4 the job as a supervisor?

5 A. For the most part, any
6 situations that Michael ran up on, he took
7 care of it himself.

8 Q. I'm not asking you that. I'm
9 asking if he came to you and ever -- came
10 to you, Mr. Lingo ever came to you and
11 specifically told you or said anything to
12 you about Mr. Lee's performance as a
13 manager?

14 A. I can't recall.

15 Q. And we've already gone through
16 that your observations of the third shift
17 were limited to two or three hours at most?

18 A. At this time, yeah.

19 Q. Was there any other time that
20 you observed third shift?

21 A. There were times when -- for
22 the most part, I would work that five
23 thirty to seven thirty, those hours for the

1 director, did you have any direct
2 supervision over Mr. Lee?

3 A. No.

4 Q. So is it fair to say that your
5 direct supervision over Mr. Lee was limited
6 to the time period between December 15th of
7 2005 and February 20th of 2006?

8 A. Yes.

9 Q. Now, during that time, December
10 15th of 2005 through February 20th of 2006,
11 how many times would you say that you were
12 on Mr. Lee's third shift?

13 A. The entire shift?

14 Q. Uh-huh. Or a significant
15 portion other than five to five thirty in
16 the morning until seven or seven thirty in
17 the morning.

18 A. I couldn't say how many times.

19 Q. Was it one? Was it ten? Was
20 it a hundred?

21 A. It was one at least.

22 Q. So at least one time?

23 A. Yes.

1 most part. But there were times that I
2 spent time on third shift. I spent time on
3 second shift. Total time.

4 Q. With Mr. Lee?

5 A. Yeah.

6 Q. How many times would you say --
7 well, let me back up. Your declaration
8 states that you were no longer Mr. Lee's
9 direct supervisor on February 20th of 2006?

10 A. Okay.

11 Q. And I think was that because
12 you moved to another department, or what
13 happened there?

14 A. That's -- I think during that
15 time, that's when I was -- that's when, I
16 guess, Michael Alford came in and I was
17 offered the lateral move to my present job.

18 Q. And what was that?

19 A. I am now the safety and
20 training director.

21 Q. Of the Abbeville plant?

22 A. Yes.

23 Q. So as a safety and training

1 Q. Was it more than five?

2 A. I'm not sure.

3 Q. Was it more than ten?

4 A. Not sure.

5 Q. So you can -- is it fair to say
6 you can only specifically remember one
7 time?

8 A. At least one time, yeah.

9 Q. Was it more than twenty?

10 A. See, what it is is that, like I
11 said, during this time period, it was a
12 whole lot going on during the transition.

13 Q. I understand.

14 A. And like I said, certain days
15 would require certain things. And it was
16 -- I mean, it's hard for me to say.

17 Q. I'm just trying to ask you to
18 remember when you worked on Mr. Lee's
19 shift. That's the eleven to seven shift.
20 Not the specific dates. Just about how
21 many times you worked on that shift?

22 A. I can't remember.

23 Q. You have no indication of how

1 many times at all?

2 A. (Witness shaking head in the
3 negative.)

4 Q. I'm not asking specifics.

5 A. No. Honestly, I can't
6 remember.

7 Q. You don't know if it was five
8 or twenty?

9 A. No.

10 Q. Okay. Did you -- was that out
11 of the norm? Did you spend more time on
12 Mr. Lee's shift than other shifts? Let me
13 rephrase that question.

14 A. Please.

15 Q. Was there -- did you perceive
16 there to be a problem on Mr. Lee's shift
17 that required you to spend extra attention
18 on his shift?

19 A. Yes.

20 Q. Okay. And you stated that you
21 did spend extra time on his shift?

22 A. Yes.

23 Q. Let's go back to what you say

1 whole department?

2 A. Yes.

3 Q. Okay. And what changes did you
4 make because of this?

5 A. More or less it was -- it was,
6 like I say, better job habits, changeovers.

7 Q. I guess specifically what I'm
8 asking is what new work methods did you
9 introduce?

10 A. It was -- I guess the methods
11 were more or less improving on I guess the
12 current way -- we also did have new
13 machinery. It was new product which
14 required I guess new methods.

15 Q. Did Mr. Lee not utilize the new
16 machinery and new products?

17 A. I mean, he used them, yes.

18 Q. Did you have any problems with
19 the way he used them?

20 A. Yes.

21 Q. Tell me.

22 A. That's -- I guess not
23 specifically the way he used them. It was

1 in your declaration. Y'all were looking
2 for managers, supervisors who were able to
3 take charge, implement and enforce new work
4 methods. Tell me about the new work
5 methods that you were implementing and
6 enforcing.

7 A. We were introduced to this
8 thing called muda.

9 Q. Can you spell that or is that
10 an acronym or something?

11 A. I want to say it was M-U-D-A.

12 Q. M-U-D-A?

13 A. Yeah.

14 Q. Does it stand for something?

15 A. I don't think so. It was --
16 I'm not sure of the origin of the word, but
17 basically what it was was a waste. Okay.
18 And not just a waste of time, but a waste
19 of procedure, a waste of motion, a waste of
20 job steps, job habits. And what it was was
21 that it was a lot of waste on procedures
22 and running the products.

23 Q. Are you talking about in the

1 more or less on how he was holding his
2 associates accountable for using.

3 Q. Explain that to me.

4 A. Okay. I guess, like I said,
5 again, the -- my problem was -- was I guess
6 the accountability for the lines. Yes.
7 Like I say, again, there were -- the
8 department as a whole was running a hundred
9 percent efficient.

10 Q. You're talking about the third
11 shift?

12 A. Third shift. But my problem
13 was when I would come in and you have down
14 time on this line, you'd have associates
15 standing around. You'd have lines out of
16 product. You have line-ups not in the way
17 that they should be. And when I would go
18 to Claude and ask Claude, Well, why is this
19 like that. Why is this like that. It was
20 more or less, Let me go find out. I don't
21 know. So that was my biggest thing.

22 Q. I'm going to come back to the
23 efficiency hopefully for the last time.

1 But I still don't understand if you're a
2 hundred percent production efficiency, I
3 don't understand how you can have products,
4 lines out of products and people standing
5 around doing nothing. Can you explain that
6 to me?

7 A. I'm going to try. I'm going to
8 try.

9 Q. I know you've tried. I know.

10 A. I'm going to try.

11 Q. I just don't understand.

12 A. Okay. Let's say my line is
13 scheduled to run eight hours. Okay. And
14 just to throw a number out there, in that
15 eight hours, I'm required to run sixteen
16 hundred sheets.

17 Q. Uh-huh.

18 A. Okay. But let's say my line
19 only runs four hours.

20 Q. Right.

21 A. Or let's say that I can get
22 that sixteen hundred in six hours instead
23 of eight hours. Okay.

1 A. Yes.

2 Q. If you go over that, then, you
3 know, you might be a hundred and thirty
4 percent efficient?

5 A. Yes.

6 Q. Now, they do that same thing
7 for the first shift and the second shift,
8 right?

9 A. Yes.

10 Q. So in essence what I think I'm
11 gathering is you're punishing Claude for
12 being too efficient and his people finished
13 early and then they might not have any --
14 you know, they might not have seen any
15 reason to make a hundred and fifty percent
16 efficient when they had already done a
17 hundred and thirty percent?

18 MS. PATE: Object to the form.

19 Go ahead.

20 A. No. The thing is associates
21 get paid for eight hours.

22 Q. Right.

23 A. Okay. Regardless of how much

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1 Q. Uh-huh.

2 A. So that first six hours I ran a
3 hundred and thirty percent efficiency.
4 Okay?

5 Q. You'd be doing well.

6 A. But the last two hours being
7 that I already have over a hundred percent
8 efficiency, why don't I just sit down and
9 not do nothing the rest of the night
10 because I already have a hundred percent
11 efficiency.

12 Q. Who determines how much a
13 machine is supposed to run?

14 A. We have our IE department.

15 Q. So the IE department says,
16 Okay, Claude, your shift line one is
17 supposed to run X of product, whatever the
18 product may be?

19 A. Uh-huh.

20 Q. And if you meet that, then --
21 say sixteen hundred like you were talking
22 about, if you meet that, then you're a
23 hundred percent production efficient.

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1 you do or how little you do, eight hours --
2 listen.

3 Q. Regardless --

4 A. It's not a piece rate.

5 Q. Right.

6 A. Okay. Regardless of how little
7 you do, how much you do, you get paid for
8 eight hours.

9 Q. I understand.

10 A. Okay. And if you can run a
11 hundred percent efficiency in six hours,
12 then being that I have my hundred percent
13 efficiency, then this means the last two
14 hours I can just do whatever I want. And,
15 see, that's the problem. That's what I
16 keep saying. The thing about the
17 efficiency is just a little piece of the
18 pie.

19 Q. Well, it doesn't make any sense
20 to me, because what I'm understanding is
21 you've got shift one. Let's just focus on
22 one line on each shift.

23 A. Okay.

1 Q. Say line one on shift one.
2 They're scheduled to run sixteen hundred
3 sheets or whatever.
4 A. Okay.
5 Q. Shift two line one is scheduled
6 to run sixteen hundred sheets. Same thing
7 on third shift. Third shift line is
8 scheduled to run sixteen hundred sheets.
9 So you're saying that in the first shift if
10 it takes them all eight hours to run
11 sixteen hundred sheets, then everything is
12 fine. They're doing good. Second shift
13 same thing. Third shift, if Claude can get
14 his employees to run all sixteen hundred
15 sheets in six hours, then you're going to
16 discipline him if they don't run any more
17 for the next two hours because his
18 employees are just standing around?
19 A. Yes.
20 Q. Even though --
21 A. Well --
22 Q. Even though Claude has gotten
23 more out of his workers than the other

1 supervisors were, then he was expected to
2 keep getting more?
3 MS. PATE: Object to the form.
4 A. The machine is supposed to run
5 eight hours --
6 Q. Right.
7 A. -- regardless. If you have no
8 down time, there's no reason for that
9 machine to stop running whether you have
10 your efficiency or you don't have your
11 efficiency. That machine is running.
12 You're paying these people to run that
13 machine eight hours.
14 Q. Okay. So you don't care how
15 much they produce. If they produce seven
16 hundred, it doesn't matter as long as
17 they're working for eight hours?
18 MS. PATE: Object to the form.
19 A. I'm not saying that.
20 Q. Well, you just told me that all
21 y'all care about or one part that you care
22 about -- not all you care about -- one part
23 that you care about is having the workers

1 shift?
2 MS. PATE: Object to the form.
3 A. Okay. Again, I say the problem
4 was people standing around not doing
5 anything.
6 Q. I understand.
7 A. Okay. Like I said, I keep
8 stressing the efficiency is just a small
9 piece. It's more or less accountability.
10 Yeah. I gave my hundred percent
11 efficiency. Well, if I got a hundred
12 percent efficiency in six hours, then I
13 don't have anything else to do the rest of
14 the night. Then send me home. Why don't
15 you send them home?
16 Q. So Mr. Lee was held to a higher
17 standard than the other white supervisors?
18 MS. PATE: Object to the form.
19 Go ahead.
20 A. No.
21 Q. What you're telling me is if
22 Mr. Lee was able to get more out of his
23 employees in a lesser time than the white

1 run a machine for eight hours. It doesn't
2 have to do with if they go over or how much
3 over they've already produced. You still
4 want that machine running.
5 MS. PATE: Object to the form.
6 Go ahead.
7 A. Yes. The machine runs for
8 eight hours.
9 Q. Right. No matter if they're
10 producing seven hundred or sixteen or
11 nineteen hundred per eight hours.
12 A. And, see, at the same time --
13 okay. At the same time, if a line runs
14 below efficiency, then it's up to the
15 supervisor to discipline for low
16 efficiency, also. So I guess sort of my
17 philosophy is like you can't praise them
18 for doing good and don't discipline them
19 for doing bad.
20 Q. So your problem with Mr. Lee
21 was not the efficiency, not how much he was
22 producing. But it was just the matter of
23 maybe he produced eight hours' worth of

1 work in six hours and then the employees
2 were standing around for two of those
3 hours? Is that what you're trying to tell
4 me?

5 A. Yes, accountability. And, see,
6 I guess -- well, nothing.

7 Q. Go ahead.

8 A. I'm fine. I'm fine.

9 Q. Okay. You said accountability?

10 A. Yes.

11 Q. Now, it's not accountability
12 for producing what he was required to
13 produce. It's accountability to make sure
14 what?

15 A. That your associates are
16 working for eight hours.

17 Q. What is Mr. Lee's job for -- as
18 far as scheduling?

19 A. He is supposed to make sure
20 that his set coordinator is keeping the
21 line scheduled according to rush orders and
22 product and to make sure that she stays on
23 that schedule or whoever is running it at

1 responsibility to schedule the work?

2 A. No.

3 Q. Okay. So in your declarations,
4 if it says it was Mr. Lee's responsibility
5 to handle scheduling for his shift, that
6 wouldn't be correct, would it?

7 MS. PATE: Object to the form.

8 Go ahead.

9 A. Okay. When I say handle, it's
10 more or less making sure that the set
11 coordinator stays on top of the orders that
12 need to be scheduled.

13 Q. Well, I just asked you who
14 handled the scheduling, and you said it was
15 the set coordinator that handled the
16 scheduling.

17 MS. PATE: Object to the form.

18 Q. Didn't you just say that?

19 A. No. You didn't ask me that.

20 Q. I said who handles the
21 scheduling, and you said the set
22 coordinator?

23 MS. PATE: Object to form. Jay,

1 that time.

2 Q. Okay. Who sets the schedule?

3 A. We have what we call a set book
4 that the planner set the schedules.

5 Q. Did the set coordinator ever
6 change that?

7 A. The book?

8 Q. No. The schedule.

9 A. From time to time, yes, they
10 have.

11 Q. When the set coordinator would
12 change the schedules, what do they need to
13 do? Who do they need to notify?

14 A. Their supervisor.

15 Q. What do they need to do? Do
16 they need to go tell their supervisor to
17 get approval or what?

18 A. Yes.

19 Q. What was the set coordinator's
20 responsibility?

21 A. To schedule the work on the
22 lines.

23 Q. Okay. So that wasn't Mr. Lee's

1 if you want to show him what
2 you're talking about or what
3 you're reading from, that
4 might help so that y'all are
5 both talking about the same
6 thing.

7 A. Yes, please.

8 Q. This that I just underlined.
9 Where it says it was --

10 A. Okay.

11 Q. Now, that really is not what I
12 was asking you. But to go back, I just
13 asked you who is -- whose responsibility or
14 who handled the scheduling, and you said it
15 was the set coordinator?

16 MS. PATE: Object to the form.

17 Why don't we -- do you want
18 to get the question read
19 back?

20 MR. TIDWELL: Well, no. That's
21 all right.

22 Q. What's the difference between
23 responsibility and handling?

1 A. My definition?

2 Q. Yes.

3 A. Responsibility I would say
4 would be accountable. I don't know. And
5 handling would be more or less taking care
6 of it.

7 Q. I mean, correct me if I'm
8 wrong. But are you saying that it was
9 Mr. Lee's -- Mr. Lee was supposed to handle
10 scheduling, but the set coordinator was
11 supposed to -- is responsible for
12 scheduling? Is that what you're saying?

13 A. Yes. And --

14 Q. Please explain that to me.

15 A. Okay. The scheduling of the
16 lines, we have a coordinator that schedules
17 the work for the line. That's her job.

18 Q. Right.

19 A. Okay. And as a supervisor --
20 this is hard to say -- as far as the work
21 that needs to be done based on your
22 priorities and your rush orders, the
23 supervisor is supposed to make sure that

1 schedule.

2 Q. Okay. Where does the schedule
3 go from there?

4 A. Supervisor gives the schedule
5 to the coordinator and reviews the schedule
6 with the coordinator.

7 Q. What does the coordinator then
8 do?

9 A. Schedules the work based on the
10 rush orders, based on the reviewing of it
11 with -- with the supervisor and then
12 schedules the lines.

13 Q. So are you saying that Mr. Lee
14 did not go over that with the set
15 coordinator, did not take the orders to the
16 set coordinator and did not go over the
17 orders with the set coordinator? Is that
18 what you're saying that he was deficient in
19 doing?

20 A. Okay. Let me see if I can say
21 it like this. What I'm saying is once the
22 schedule was set --

23 Q. By the set coordinator?

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1 the coordinator stays on that scheduling.

2 Q. So you're saying your
3 definition of -- it was Mr. Lee's
4 responsibility to handle scheduling for
5 this shift and meant that he was overseeing
6 the set coordinator to make sure she was
7 staying on or the set coordinator was
8 staying on the proper schedule? Is that
9 what you're saying?

10 A. Okay. I'm trying to explain
11 this the best way I can.

12 Q. Let me rephrase it unless you
13 want to continue.

14 A. Go ahead.

15 Q. When you get a bunch of
16 orders --

17 A. Uh-huh.

18 Q. -- or when it comes through
19 that, okay, you've got to run a thousand
20 sheets, you've got to run two thousand
21 pillow cases, you've got to run whatever,
22 who does that go to?

23 A. The supervisors receive the

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1 A. By the book, yes. Once the
2 schedule comes out, once the supervisor
3 reviews what should be done --

4 Q. Right.

5 A. -- on the schedule, my thing
6 was instead of following the schedule,
7 instead of Claude making sure that she
8 follows the schedule, it was more or less
9 to the point to where she would run what
10 she wanted to run as far as big orders and
11 easy orders. And that was the problem.
12 Because when -- again, when I would ask,
13 well, why are we running this and not
14 running this, he had no clue as to why.
15 Because the set coordinator would change it
16 around the way she wanted to run it.

17 Q. To make it most efficient?

18 MS. PATE: Object to the form.

19 Q. I mean, that's her job. Or not
20 her. I'm sorry. I don't know if it was a
21 male or female. But that's the set
22 coordinator's job is to run it to be the
23 most productive and most efficient way to

1 run it, right?

2 A. By priorities.

3 Q. Well, I understand if you've

4 got rush jobs that need to go through. But

5 other than rush jobs, wasn't it the set

6 coordinator's responsibility to look at

7 what the orders were and to figure out the

8 best way to have them run to be most

9 productive and efficient?

10 MS. PATE: Object to form.

11 A. By priority.

12 Q. Is there any other priority

13 than rush orders?

14 A. You have lower priorities.

15 Q. Well, that's what I'm saying.

16 Other than --

17 A. Okay. I guess to kind of

18 explain it, okay, if you have a list of

19 orders. Let's say one through ten. Well,

20 number ten is an order for seven thousand.

21 Okay. But number one, number three and

22 number five are orders for a hundred and

23 three hundred and four hundred. Okay. But

1 one of the lowest -- talking about rating

2 Mr. Lee as fair -- is one of the lowest

3 ratings on the performance review and was

4 due to poor performance in

5 supervision/management skills,

6 communication skills and administration

7 areas?

8 A. Uh-huh.

9 Q. Can you be specific and give me

10 some examples of that?

11 A. Of each?

12 Q. Uh-huh.

13 A. Okay. I guess in the matter of

14 supervision management skills, like I say,

15 it was more or less as accountability to

16 the associates. Communication skills, more

17 or less to the point of communicating with

18 the previous supervisor or the next

19 supervisor as far as problems in the

20 department, rush orders, stuff like that.

21 And administrative areas, I guess

22 disciplinary, as far as disciplinary action

23 with the associates on the floor.

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1 they were of higher priority than number

2 ten was. Well, being that number ten was a

3 bigger order with a lower priority but I

4 could get more out of this order with less

5 changeover, why not skip over the little

6 orders and go to the big order. Which like

7 I say, in that case, it was based on

8 priority.

9 Q. But didn't they have to have

10 all the orders done by the end of the

11 shift?

12 A. No. It's a list. You have

13 pages and pages of them.

14 MR. TIDWELL: I'm going to go

15 ahead and mark this, the

16 declaration of Frank Major

17 as Plaintiff's Exhibit A.

18 (Whereupon Plaintiff's Exhibit A

19 was marked for identification

20 and attached to the original

21 transcript.)

22 Q. On page two, paragraph four of

23 this declaration, you state that this is

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1 Q. Let me ask you about the

2 associates on the floor. Isn't it true

3 that the third shift has a higher turnover

4 than the first or second shift?

5 A. I can't say yes to that.

6 Q. If Mr. Lee would say the third

7 shift had a higher turnover ratio, would

8 you have any -- would you be able to

9 dispute that?

10 A. During this time?

11 Q. Yes.

12 A. Yes, because it was all three

13 of the shifts had turnovers at that time.

14 Q. I'm not saying whether they

15 had. I'm saying the third shift had a

16 higher turnover. You would dispute that

17 Mr. Lee would claim -- is claiming that the

18 third shift had a higher turnover?

19 A. Than the other two?

20 Q. Than the first or second shift?

21 A. To state exactly, I'm -- I

22 can't say exactly.

23 Q. I'm not asking you to state

1 that. I'm asking you if you would dispute
2 that?

3 A. Like I said, my reason would be
4 that all three shifts had turnovers.

5 Q. I understand that. I'm asking
6 if you would dispute that the third shift
7 had a higher turnover than the first and
8 the second shift, if you could dispute
9 that?

10 A. I'm not sure how to answer that
11 question.

12 Q. You just stated that you were
13 not aware of whether the third shift had a
14 higher turnover ratio or turnover than the
15 first or second shift?

16 A. Uh-huh.

17 Q. Right?

18 A. Uh-huh.

19 Q. Now, I'm saying would you -- do
20 you have any facts that would be able to
21 dispute Mr. Lee, if Mr. Lee stated that his
22 shift, the third shift, had a higher
23 turnover than first and second shift? Do

1 A. It really wouldn't matter to me
2 as long as I was working.

3 Q. So you wouldn't care whether
4 you were working from eleven p.m. to seven
5 a.m. or seven a.m. -- or seven p.m. -- I'm
6 sorry. Or five a.m. to seven p.m. You
7 wouldn't care?

8 A. Me personally?

9 Q. You personally?

10 A. No.

11 Q. Have you ever worked a night
12 shift before?

13 A. Yes.

14 Q. When?

15 A. You mean for long period of
16 time?

17 Q. Yeah. I'm not talking about
18 like just one night.

19 A. This was back in Clemson. Yes.

20 Q. Okay.

21 A. At the Clemson plant.

22 Q. What were you doing?

23 A. I might have been supervising

1 you have any facts to dispute that?

2 A. Other than maybe records of --

3 Q. I'm asking do you have any
4 records?

5 A. You're saying facts?

6 Q. Yes.

7 A. I mean, me personally?

8 Q. Yes.

9 A. No.

10 Q. Okay. Thank you.

11 A. All right.

12 Q. In your opinion, what was a --
13 as a floor associate, would the third shift
14 be less desirable to work for than the
15 first or second shift?

16 A. In my opinion?

17 Q. Because of the hours, yes.

18 A. It depends, because you have
19 some people that would rather work third
20 than work first or second.

21 Q. Would you?

22 A. Me personally?

23 Q. Yes.

1 at the time.

2 Q. So you were supervising the
3 third shift?

4 A. Uh-huh.

5 Q. And why did you quit doing
6 that?

7 A. I went to second shift.

8 Q. That's what I was asking.

9 A. Yeah. I went to second shift.

10 Q. And why did you go to second
11 shift?

12 A. Because the -- there were
13 changes made in the department, and my
14 department manager said he needed me on
15 second shift instead of third shift.

16 Q. So it had nothing to do with
17 hours?

18 A. No.

19 Q. You're saying you don't have an
20 opinion as far as whether normal people
21 would want to work eleven p.m. to seven
22 a.m. versus seven a.m. to five p.m. or
23 something like that?

1 A. I mean, like I said, you have
2 some people that would rather work the
3 night shift than the day shift.

4 Q. If Mr. Lee states that he lost
5 numerous employees because they didn't want
6 to work the night shift and they wanted to
7 transfer as soon as a job opened up on
8 first or second shift, would you disagree
9 with that?

10 A. Say that again.

11 Q. If Mr. Lee states that he lost
12 several third shift hourly associates
13 because of the reason that they did not
14 like to work the night shift and they
15 wanted to work on the first or second
16 shift, would you have any reason to
17 disagree with that?

18 A. Okay. Say it one more time,
19 please. Say it one more time for me.

20 Q. Mr. Lee states the third shift
21 was a less desirable shift because of the
22 hours.

23 A. Okay.

1 A. Yes.

2 Q. Who?

3 A. Oh, okay. Well, maybe I should
4 have asked you to say the question again.

5 Q. In the same position, not
6 moving up to management. I'm saying do you
7 know of any first or second shift hourly
8 employees that wanted to move to the same
9 position on third shift?

10 A. During this time?

11 Q. Yes.

12 A. No.

13 Q. Okay. Did you know of any on
14 the third shift that wanted to move to
15 second or first shift during this time?

16 A. No.

17 Q. Do you know if there was any
18 transfers from third shift to first or
19 second shift, lateral moves?

20 A. I can't remember.

21 Q. If Mr. Lee says that there
22 were, do you have any reason to dispute
23 that?

1 Q. He states as soon as openings
2 were -- if there was an opening on first
3 and second shift, a lot of times third
4 shift employees would try to get those jobs
5 because of the hours. Would you disagree
6 with what Mr. Lee is stating about the
7 third shift?

8 A. Okay. I guess for me to get my
9 understanding, if there were associates on
10 second shift that wanted first shift jobs,
11 I mean, I don't know how can I -- I can't
12 answer that question.

13 Q. Do you have any facts or any
14 knowledge that would disagree with Mr. Lee
15 stating that his third shift hourly
16 associates, some of them wanted to work on
17 first shift because they didn't like the
18 hours?

19 A. No.

20 Q. Okay. Do you know of any
21 associates on first or second shift, hourly
22 associates, that wanted to work on third
23 shift?

1 A. That there were transfers?

2 Q. Yes.

3 A. No.

4 Q. Now, I think we briefly talked
5 about Michael Alford taking over for you as
6 the department manager.

7 A. Uh-huh.

8 Q. Is it true that Mr. Alford had
9 never worked at Westpoint before?

10 A. To my knowledge, yes.

11 Q. And is it also true that he was
12 a former manager at Movie Gallery before
13 being hired as the department manager?

14 A. From what I had heard, yes.

15 Q. Do you know the circumstances
16 surrounding Mr. Alford's hire?

17 A. No.

18 Q. Did you partake in the
19 interview regarding Mr. Alford's hire?

20 A. No.

21 Q. Let's talk briefly about --
22 well, not briefly. But let's talk about
23 your evaluation you completed on Mr. Lee

1 that's dated 1/25/06. And it's attached to
2 your declaration if you want to just flip a
3 few pages over. Will you please look over
4 this evaluation and see if this is an
5 evaluation you completed according to
6 Mr. Lee as you remember completing it?

7 A. Yes.

8 Q. Is that your signature on I
9 guess the third page of this document?

10 A. Yes.

11 Q. Who is the reviewing manager's
12 signature? Is that you?

13 A. No.

14 Q. Under that, who is that?

15 A. That's Anthony Perry.

16 Q. Now, who was Anthony Perry?

17 A. Okay. I'm going to try to
18 explain this. During this transition,
19 while I was I guess acting department
20 manager, the decision of upper management
21 was decided to -- to put packaging and the
22 distribution center under the same
23 department manager. And that would be

1 Mr. Lee his yearly review for the entire
2 2005 when you had only been his direct
3 supervisor for a month and a half at best?

4 A. Well, I -- like I said, direct
5 supervisor for that month and a half. But
6 I guess the most part of the year I was in
7 the department and observing him throughout
8 that.

9 Q. But you weren't his supervisor?

10 A. No.

11 Q. And we've already gone through
12 that, that you stated that you didn't
13 supervise him?

14 A. No.

15 Q. So, you know, you might have
16 seen him here and there, but you weren't
17 his supervisor?

18 A. But I did observe him and I did
19 have conversations with him.

20 Q. But you don't remember when you
21 first started observing him?

22 A. No.

23 Q. You stated that you were hired

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1 Anthony Perry.

2 Q. Okay. This, according to the
3 date on the front of this performance
4 review, says it was completed on 1/25 of
5 '06?

6 A. Uh-huh.

7 Q. Is that correct? Is that when
8 you completed it?

9 A. I believe so. Yes.

10 Q. Now, what is this performance
11 review for?

12 A. It's an annual performance
13 review done yearly.

14 Q. What year is it for?

15 A. This is for the previous year.

16 Q. 2005?

17 A. Yes.

18 Q. And we talked earlier that you
19 were Mr. Lee's direct supervisor at the
20 time this was done about a month and a half
21 at best?

22 A. Direct supervisor, yes.

23 Q. So you felt qualified to give

1 in May of 2005 --

2 A. Uh-huh.

3 Q. -- as a project manager which
4 you did not have any observations of
5 Mr. Lee at that period?

6 A. Is that what I said?

7 Q. Well, when we talked about you
8 being hired as project manager --

9 A. Uh-huh.

10 Q. Let's see where it is. In
11 charge of outsourcing and restructuring
12 Abbeville or reorganizing Abbeville,
13 talking about the product storage and
14 product flow. No oversight over actual
15 employees.

16 A. Okay.

17 Q. Do you remember saying that?

18 A. Yes.

19 Q. Okay. And I think it was you
20 don't remember when, but you started doing
21 that in May of '05 as the product manager?

22 A. Uh-huh.

23 Q. And then sometime later -- you

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1 can't remember when -- you were transferred
2 or you took the position of assistant
3 department manager over the whole packaging
4 department?

5 A. Uh-huh.

6 Q. Now, while you were working
7 there, you stated that you didn't have any
8 supervisory capacity over Mr. Lee?

9 A. Uh-huh.

10 Q. And you said that was Bob
11 Turner who was the department manager?

12 A. Yes.

13 Q. Okay. So you didn't get any
14 direct supervision over Mr. Lee until
15 December 15th, 2005?

16 A. Yes.

17 Q. So let me go back to this.

18 A. Okay.

19 Q. Did you feel qualified to give
20 Mr. Lee a 2005 yearly review when you had
21 only been his direct supervisor for a month
22 and a half?

23 A. Yes.

1 direct supervisor?

2 A. Yes.

3 Q. So you talked to Mr. Lee about
4 his job performance before he -- before you
5 became supervisor or direct supervisor over
6 him?

7 A. Yes.

8 Q. But you can't remember when?

9 A. No.

10 Q. Do you remember what you talked
11 to him about?

12 A. No.

13 Q. What about January through May
14 of 2005? You didn't manage him then, did
15 you?

16 A. No.

17 Q. You didn't supervise him and
18 you didn't observe him then, did you?

19 A. No.

20 Q. But this review that we're
21 looking at right here that's attached to
22 Exhibit A, that covers that period, doesn't
23 it?

1 Q. Why?

2 A. Because like I said, I was his
3 direct supervisor for I guess, like I say,
4 a month and a half. But I had been working
5 maybe not with him, but I had been
6 observing him for more than just a month
7 and a half.

8 Q. How long?

9 A. Don't know exactly.

10 Q. Give me a guess. Three months?
11 Four months? Five months? We know it
12 wouldn't have been longer than seven
13 because seven months would have been right
14 when you first started.

15 A. I'm not sure. I mean --

16 Q. When was the first time you
17 talked to Mr. Lee or disciplined Mr. Lee or
18 said anything to Mr. Lee about his job
19 performance?

20 A. Exactly when, I can't remember.

21 Q. Approximately when?

22 A. I'm not sure.

23 Q. Was it before you became his

1 A. Yes.

2 Q. Well, how did you feel
3 confident to fill this out if you didn't
4 observe him for that period of time?

5 MS. PATE: Object to form. Asked
6 and answered.

7 A. I guess based on -- I guess
8 based on the time that I did know him.

9 Q. Okay. So in essence, this is
10 not a yearly review, then. It's just a
11 review of since you knew him?

12 MS. PATE: Object to the form.

13 Q. Or since you observed him?

14 A. No. It's a yearly review.

15 Q. Although you didn't evaluate
16 him or observe him the whole year, right?

17 A. You're still asking is this a
18 yearly review?

19 Q. You said it was a yearly
20 review?

21 A. Yes.

22 Q. And I said although you did not
23 observe him or reevaluate him that whole

1 year?

2 A. This is a yearly review.

3 Q. That's not answering my
4 question.

5 A. Okay. Ask the question again,
6 please.

7 Q. You didn't observe him the
8 whole year of 2005, did you?

9 A. No.

10 Q. Okay. But yet you filled out
11 -- the company had you fill out a yearly
12 review for him for the whole entire year of
13 2005, correct?

14 A. Yes.

15 Q. Can you explain to me why it
16 appears that ratings were changed on this
17 evaluation?

18 A. Yes.

19 Q. Please do.

20 A. When -- like I said, keep in
21 mind the transition that was going on.
22 When it came time to do the reviews, the
23 plant manager wanted to review the reviews

1 evaluation on Claude?

2 A. Uh-huh.

3 Q. Then you take it to
4 Mr. McCants?

5 A. Uh-huh.

6 Q. You and Mr. McCants sit down
7 and talk about it?

8 A. Uh-huh.

9 Q. Okay. Did he instruct you to
10 change these?

11 A. He made recommendations that
12 once discussing it with him that I agreed
13 with that needed to be changed.

14 Q. Did Mr. McCants ever observe
15 Mr. Lee?

16 A. Yes.

17 Q. On what occasion?

18 A. I'm not sure about that.

19 Q. How do you know he did?

20 A. Because he was -- Mr. McCants
21 was the plant manager who also spent time
22 on all three shifts.

23 Q. How do you know Mr. McCants

1 once the department managers did the
2 reviews.

3 Q. Who was the plant manager that
4 wanted to review the reviews?

5 A. At this time, it was Glen
6 McCants.

7 Q. Glen McCants?

8 A. Yeah. I think. James Glen
9 McCants.

10 Q. Okay. So after you filled out
11 this evaluation --

12 A. Uh-huh.

13 Q. -- Mr. McCants wanted to review
14 it?

15 A. Yeah. This was all
16 evaluations.

17 Q. Was -- well, let's just talk
18 specifically about this one.

19 A. Okay.

20 Q. Was this before you met with
21 Claude or after?

22 A. Before.

23 Q. So you filled out this

1 observed Mr. Lee? Did you physically see
2 him?

3 A. Yes.

4 Q. Okay. When?

5 A. He was in the packaging
6 department all the time.

7 Q. Did he ever work on Mr. Lee's
8 shift?

9 A. Entirely?

10 Q. Uh-huh.

11 A. Not sure.

12 Q. Okay. You don't know any dates
13 that Mr. McCants would have observed
14 Mr. Lee?

15 A. No, sir.

16 Q. What was Mr. McCants' hours?

17 A. He basically made his own
18 hours.

19 Q. Well, what was the normal day
20 for him?

21 A. For the most part, we -- like I
22 said, we all were -- all managers were
23 working anywhere from five thirty to seven

1 thirty at night.

2 Q. So Mr. McCants was in there at
3 five, five thirty to seven, seven thirty
4 every day?

5 A. For the most part, yes.

6 Q. Was he working alongside of
7 you?

8 MS. PATE: Object to the form.

9 A. Okay. Alongside of me? What
10 you mean?

11 Q. Well, I mean, were y'all going
12 around together doing your thing, or was he
13 doing something else?

14 A. Sometimes we did. We did walk
15 around together sometimes.

16 Q. Did you ever hear Mr. McCants
17 talk to Mr. Lee about anything?

18 A. I'm not sure about that.

19 Q. Did you ever hear Mr. McCants
20 discipline or critique Mr. Lee's job
21 performance to Mr. Lee?

22 A. I'm not sure.

23 Q. Okay. You're not sure whether

1 Mr. McCants and you talk and you -- do you
2 make these changes or does he?

3 A. Me. I did based on his
4 recommendations.

5 Q. So Mr. McCants recommends that
6 you change, for example,
7 supervision/management skills -- and you've
8 got a copy in front of you.

9 A. Yes.

10 Q. -- from meets requirements to
11 fair?

12 A. Uh-huh.

13 Q. Did Mr. McCants change anything
14 in the comments on that where it says
15 Claude has good management skill? Needs to
16 work a little harder motivating associates?

17 A. No.

18 Q. So you're stating right here --
19 that's your handwriting, right?

20 A. Yes.

21 Q. That Claude has good management
22 skills?

23 A. Uh-huh.

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1 you ever heard it?

2 A. No.

3 Q. Okay. You never did hear it?

4 A. Unh-unh.

5 Q. So you never observed Mr. Lee
6 and Mr. McCants or Mr. McCants talking to
7 Mr. Lee about his job performance?

8 A. No.

9 Q. What was Mr. McCants' job
10 duties?

11 A. He was manager of the entire
12 facility.

13 Q. What did that entail?

14 A. To say exactly what it was, I
15 couldn't say exactly. But he was mainly
16 responsible for the Abbeville facility.

17 Q. Did he walk around on the
18 floor?

19 A. Yes.

20 Q. Did he have an office there?

21 A. Yes.

22 Q. So let's go back to you and
23 Mr. McCants have a meeting wherein

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1 Q. That's what you wrote, right?

2 A. Yes.

3 Q. Okay. Go down two.

4 A. Okay.

5 Q. Job knowledge. You rated him
6 as above requirements. And it was changed
7 to meets requirements?

8 A. Uh-huh.

9 Q. You wrote has good knowledge of
10 the job and job duties?

11 A. Uh-huh.

12 Q. Is that what you wrote?

13 A. Yes.

14 Q. Okay. Go down two more.

15 A. Uh-huh.

16 Q. This is a large discrepancy
17 right here. You put -- --

18 MS. PATE: Object to the form.

19 Q. Under communication skills, you
20 had previously rated him as above
21 requirements?

22 A. Uh-huh.

23 Q. After your meeting with

1 McCants, it's changed to fair?
 2 A. Uh-huh.
 3 Q. Now, it looks like the comment
 4 section was whited out. Looks like there
 5 was something written in and then it was
 6 changed. Do you remember what was
 7 originally there?
 8 MS. PATE: Object to the form.
 9 A. No. I don't know if that was
 10 -- no.
 11 Q. Don't remember what was
 12 originally there?
 13 A. No.
 14 Q. Now, do you know who has the
 15 original of these documents?
 16 A. It may be in his personnel
 17 file. I'm not sure.
 18 MR. TIDWELL: I think we've asked
 19 for those. But if you have
 20 the original of those
 21 documents.
 22 MS. PATE: I'll check.
 23 Q. Let's go down two more.

1 don't remember. But based on his
 2 recommendations, I changed them, agreed
 3 with them and changed them.
 4 Q. Do you feel it had anything to
 5 do with Mr. Lee's race?
 6 MS. PATE: Object to the form.
 7 A. Do I what?
 8 Q. Do you feel that Mr. McCants
 9 wanting to change all of these to lower
 10 requirements had anything to do with
 11 Mr. Lee's race?
 12 MS. PATE: Object to the form.
 13 Go ahead.
 14 A. No.
 15 Q. Did you ever keep a copy of
 16 these?
 17 A. No.
 18 Q. Were you aware of Mr. Lee's
 19 history with that company?
 20 A. As far as?
 21 Q. Being with the company for
 22 twenty-nine years, working his way up from
 23 on the floor to becoming management?

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1 A. Okay.
 2 Q. Administrative, you had marked
 3 above requirements. After your meeting
 4 with Mr. McCants, y'all changed it. You or
 5 him changed it to fair?
 6 A. Uh-huh.
 7 Q. And, again, it looks like if
 8 you look at the -- it looks like something
 9 was whited out over the comment section?
 10 A. Uh-huh.
 11 Q. And something else was written.
 12 Do you remember what was originally in
 13 there?
 14 A. No, sir.
 15 Q. Okay. Do you remember changing
 16 those comments?
 17 A. Yes.
 18 Q. Okay. And why did you change
 19 them?
 20 A. When Mr. McCants and I sat down
 21 and reviewed it, based on recommendations
 22 that he made, exactly what the
 23 recommendations were, word for word, I

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1 A. I knew he was there for quite
 2 some time. But exactly how long, at this
 3 time, maybe not exactly how long. No.
 4 Q. Did you ever have any doubts
 5 about Mr. Lee's knowledge of the packaging
 6 department and what was supposed to be
 7 done?
 8 MS. PATE: Object to the form.
 9 Go ahead.
 10 A. Some doubts, yes.
 11 Q. Particularly what?
 12 A. You said as far as his
 13 knowledge of the job. Well, maybe not his
 14 knowledge of the job. Okay. Well --
 15 Q. So there are no doubts?
 16 A. Based on his knowledge of the
 17 packaging department?
 18 Q. Yeah.
 19 A. No.
 20 Q. Okay. So he knew what he was
 21 supposed to be doing?
 22 A. Yes.
 23 Q. I mean, he'd been there for

1 twenty something years?

2 MS. PATE: Object to the form.

3 Q. Let's look at -- you're on the
4 same page -- B. You put strengths. Is
5 that your handwriting?

6 A. Yes.

7 Q. And I'm just going to read what
8 you wrote. Claude's strength is experience
9 in the packaging department and his ability
10 to adapt to changes?

11 A. Uh-huh.

12 Q. Doesn't that contradict what
13 you wrote in the declaration?

14 MS. PATE: Object to the form.

15 Q. And I'm going to show you what
16 you said in this declaration. Well, I take
17 that back. You didn't directly say that
18 Mr. Lee was not able to adapt to changes.
19 However, you did imply it in paragraph
20 three which says, Although Mr. Lee's
21 department had fairly high efficiency
22 report, that is the standard for each line
23 which apparently you'd like to change. You

1 Q. Pardon me?

2 A. Claude.

3 Q. These goals, I guess the
4 planned personal objective and
5 accomplishments, is that what you fill out
6 or is that Claude?

7 A. That's me.

8 Q. Okay. Are these -- it looks
9 like one, two, three, four -- four goals
10 for 2006, is that what they are?

11 A. Yes.

12 Q. First one being efficiency goal
13 ninety-five percent end of first quarter, a
14 hundred percent for second, third and
15 fourth?

16 A. Uh-huh.

17 Q. I guess Mr. Lee was terminated
18 before the end of the first quarter. But
19 was he on track, in your opinion, to meet
20 that first goal of ninety-five percent?

21 A. I'm not sure.

22 Q. Do you have anything that would
23 say that he wasn't? Did you ever talk to

1 said that while meeting and exceeding
2 production standards was certainly
3 important, more important was that
4 Westpoint have on every shift and every
5 department managers, supervisors who were
6 willing and able to take charge, implement
7 and enforce new work methods and help move
8 the company forward towards its goal. From
9 reading the strengths and weaknesses, it
10 appears that you thought that Mr. Lee was
11 able to adapt to changes. Isn't that what
12 you put?

13 A. Yes.

14 Q. Now, you -- the last thing that
15 was changed on this or that I can tell that
16 was changed is section E was changed from
17 overall performance rating from meets
18 requirements to fair, correct?

19 A. Yes.

20 Q. Accomplishments, is that what
21 you fill out or is that what Claude writes
22 on the next page?

23 A. Claude.

1 him about his production efficiency goal to
2 indicate that he wasn't meeting that?

3 A. I'm not sure.

4 Q. You're not sure if you ever
5 talked to him about it?

6 A. Specifically during this time
7 period, I'm not sure.

8 Q. If Mr. Lee states that he was
9 meeting his goal, would you disagree with
10 that?

11 A. It's hard to say. I mean --

12 Q. I don't understand why it's
13 hard to say. Either you would or you
14 wouldn't?

15 A. No. Off the top of my head
16 now, I don't remember exactly what his
17 efficiency was then.

18 Q. So you don't have any knowledge
19 right now as we sit here to state whether
20 Mr. Lee was meeting that ninety-five
21 percent or not?

22 A. Right here in front of me, no.

23 Q. And you don't remember?

1 A. No.
2 Q. What about the second one? The
3 incident rate of two percent or less from
4 the department?
5 A. Uh-huh.
6 Q. Do you remember if he met that
7 one?
8 A. No, sir.
9 Q. He did not or you don't
10 remember?
11 A. I don't remember.
12 Q. Okay. Let's go to the third
13 one. Reduce -- reduce cost per dozen by it
14 looks like one third?
15 A. Thirteen cents.
16 Q. Thirteen cents. Is that by the
17 end of fourth quarter?
18 A. Yes.
19 Q. Okay. Do you know if he was
20 reducing costs?
21 A. No, sir.
22 Q. You don't know?
23 A. Unh-unh.

1 remember, he was meeting that -- all these
2 goals? I mean. I'm sorry. Not all these
3 goals, but that fourth goal?
4 A. Lost time accident?
5 Q. Yes.
6 A. That one I can say yes.
7 Q. That he was meeting?
8 A. Yes.
9 Q. Okay. And for the other three,
10 you just don't remember?
11 A. No. I'm not sure with the
12 numbers and the time period.
13 Q. Right. That's what I'm asking.
14 You just don't remember on the other three?
15 A. No.
16 Q. Next that's still attached to
17 Exhibit A is a personnel notice?
18 A. Uh-huh.
19 Q. What was the basis of this
20 notice?
21 A. Poor job performance.
22 Q. Why was there not a -- in the
23 top right corner there's an indication of

1 Q. Okay. Is that 3-A or
2 something? What is that?
3 A. It might be.
4 Q. Goals of sixty-five cents end
5 of first quarter, sixty-one cents end of
6 second, fifty-eight end of third,
7 fifty-five end of fourth. What is that
8 referring to?
9 A. It's the same. The cost per
10 dozen.
11 Q. Okay. Do you know if he was
12 doing that?
13 A. No, sir.
14 Q. You don't remember?
15 A. No, sir.
16 Q. Okay. What about the zero lost
17 time incidents?
18 A. That's --
19 Q. Accidents. I'm sorry. Do you
20 remember if he was meeting those goals?
21 A. I don't believe we had a lost
22 time accident during that time.
23 Q. Okay. So as far as you can

1 what the notice is for?
2 A. Uh-huh.
3 Q. Why was there no indication of
4 what the notice was for?
5 A. Talking about in the one
6 through seven box?
7 Q. Yes.
8 A. There's no reason.
9 Q. Were you not supposed to circle
10 or check as far as what the notice was for?
11 A. Well, when I reviewed the
12 notice with him, I explained to him what it
13 was for.
14 Q. I'm not asking that. I'm
15 asking if you were not supposed to check or
16 mark or indicate on the top right-hand
17 corner what this notice was for?
18 A. As standard procedure?
19 Q. Yes.
20 A. Yes and no.
21 Q. Okay. Well, explain that to
22 me.
23 A. Well, none of these apply to

1 what the notice was for.

2 Q. Is there another notice that
3 you're supposed to fill out for poor job
4 performance?

5 A. Oh, it's several notices you
6 can fill out for poor job performance.

7 Q. Well, why would you have chosen
8 this one if none of these one through seven
9 apply?

10 A. Because -- can I explain to you
11 what this personnel notice is?

12 Q. Sure.

13 A. Okay. Basically, my -- the way
14 I like to explain it, a personnel notice is
15 a verbal warning on paper.

16 Q. Okay.

17 A. And, basically, this was me
18 letting Claude know that these things
19 needed to be worked on. So I guess nothing
20 was circled up there because I believe
21 everything was addressed in the notice and
22 along with Claude going over the notice.

23 Q. What other types of notices are

1 refer to as pink papers.

2 Q. Okay. Did you ever give
3 Mr. Lee one of those?

4 A. No.

5 Q. Do you know if anybody ever
6 did?

7 A. I don't know.

8 Q. Tell me the procedure you just
9 kind of started to. You were saying
10 personnel notice is followed by written
11 counselling. But tell me the complete
12 procedure.

13 A. For hourly or salary?

14 Q. For Mr. Lee.

15 A. Okay. With --

16 Q. Salary employee.

17 A. With a salaried employee, the
18 same procedures don't apply for salary as
19 it does for hourly.

20 Q. Okay.

21 A. Okay. Like I said, the
22 personnel notice is a verbal warning. The
23 next step for a salaried associate after a

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1 there?

2 A. You have many written
3 counsellings, written warnings. Gosh. My
4 mind has gone blank. Corrective actions.
5 I mean, you have miscellaneous notices.

6 Q. What's the difference between a
7 personnel notice and the written
8 counselling, written warning or corrective
9 action?

10 A. Okay. The difference is, like
11 I say, the personnel notices are like
12 verbal warnings. And it's a stage that you
13 go through as far as write-ups are
14 concerned.

15 Q. Okay.

16 A. Okay. For an hourly associate,
17 usually the personnel -- what follows a
18 personnel notice for -- if a -- if a
19 violation was -- -- okay. The written
20 counselling follows a personnel notice.

21 Q. Okay. Is that on a particular
22 form?

23 A. Yes. It's I guess like what we

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1 personnel notice would be a --

2 Q. Let me stop you. I'm not
3 interested -- okay. I'm not interested in
4 hourly. Just do the salary.

5 A. The next step after a salaried
6 associate is issued a personnel notice
7 would be a corrective action.

8 Q. So there's no pink slip for
9 salaried employees?

10 A. No. That -- that process, it
11 doesn't apply to salary.

12 Q. Why?

13 A. It's just policy, I guess.

14 Q. So the policy is that hourly
15 associates get personnel notices and a
16 written counselling notice or a pink slip,
17 but the salaried employees, they go
18 straight from a personnel notice to a
19 corrective action?

20 A. I mean, there are cases that
21 you wouldn't have to issue a salaried
22 associate a personnel notice.

23 Q. Like what?

1 A. I mean, if -- if -- if I guess
2 an upper manager feels as though they want
3 to give you a corrective action, they can
4 give you a corrective action. I mean, like
5 I said, a personnel notice is to let you
6 know that you're being warned about
7 something and your next step will be this.
8 It's almost like I guess you want to say
9 maybe a wake-up call, so to speak.

10 Q. Do you have -- does the company
11 have any particular policies that would
12 outline what actions would get a personnel
13 notice versus what action would get a
14 corrective action or versus what action
15 would get just a straight termination, or
16 is it just up to the supervisor?

17 A. No. It's policies in place for
18 that.

19 Q. Okay. Tell me about them.

20 A. Now, which one do you want to
21 hear about? The hourly or salary?

22 Q. Salary.

23 A. Okay. Each salaried associate

1 associates continue to use improper job
2 methods. What are you talking about?

3 A. That's what I was talking
4 about, the waste. I mean --

5 Q. Well, you've already -- I think
6 you've already stated that right before
7 that is excessive waste of time and motion.
8 Is this your associates continue to use
9 improper job methods even after the correct
10 method has been given or even shown to
11 them, is this just a duplicate of the
12 previous sentence, or are you referring
13 about something else?

14 A. Maybe it's a duplicate of the
15 previous sentence. It all goes together.

16 Q. Incorrect work flow throughout
17 the department. Is that in the third
18 shift, or is that in first and second
19 shift, too?

20 A. Well, actually I believe this
21 -- this notice was actually given to all
22 three of the supervisors. To all of them.

23 Q. So this wasn't a specific

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1 is given what we call an associates guide
2 book, a salary guide book. And all of
3 these procedures are listed in that book.
4 I believe it's even a section on corrective
5 action.

6 Q. So it tells you what action
7 deserves what?

8 A. Uh-huh.

9 Q. Okay. But you don't -- you
10 can't recall it off the top of --

11 A. No. I can't recall it.

12 Q. And when you fill out personnel
13 notices, do you refer back to that book?

14 A. See, when -- well, like I said,
15 with the personnel notices, it's the
16 personnel notices are, like I said, what I
17 like to call verbal warnings on paper.

18 Q. Right.

19 A. And the reason I would say
20 verbal warnings on paper would be just to
21 assure that this was covered with that
22 person.

23 Q. Okay. You state in here, Your

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1 notice given to Claude Lee? It was given
2 to basically company -- I mean department
3 wide to all the supervisors?

4 A. Yes, sir.

5 Q. Why?

6 A. Just to I guess basically let
7 them know of the improvements that needed
8 to be done in the packaging department.

9 Q. Why were you instructed to give
10 this?

11 A. No. This was on me.

12 Q. So you just felt that it was on
13 you to give all the -- all three
14 supervisors a personnel notice?

15 A. Yeah. What -- with me
16 personally, what I tend to do is I tend to
17 try to be consistent with all supervisors
18 unless it's a certain area that only --
19 only relates to you.

20 Q. Right. So this related to all
21 three of the supervisors?

22 A. Yes.

23 Q. And just to clarify, the other

1 two white supervisors were not fired, were
2 they?

3 MS. PATE: Object to the form.

4 Q. Were the other two, Mike
5 Etheridge and Billy Bedsole, fired?

6 MS. PATE: Object to the form.

7 Go ahead.

8 THE WITNESS: I can answer?

9 MS. PATE: Uh-huh.

10 A. Fired, no.

11 Q. Terminated? Whatever you want
12 to call it.

13 A. Terminated, no.

14 Q. Okay. So the only written
15 documentation you gave to Mr. Lee was the
16 2005 yearly review and this personnel
17 notice which was not directed particularly
18 at Claude Lee. It was directed to all the
19 supervisors in the packaging department,
20 correct?

21 A. Correct.

22 Q. Oh, let me ask you one other
23 question. Who was -- Bob Turner was

1 mean terminated? As far as --

2 Q. Terminated his employment?

3 A. Like paperwork or --

4 Q. Who actually told -- whose
5 decision was it to terminate Mr. Lee?

6 MS. PATE: Object to the form.

7 A. It had to have been in
8 personnel I mean as far as HR goes.

9 Q. Did you recommend to anybody in
10 personnel to terminate to Mr. Lee?

11 A. No.

12 Q. Did you recommend to anybody to
13 terminate Mr. Lee?

14 A. No.

15 Q. Do you think Mr. Lee should
16 have been terminated?

17 A. My opinion?

18 Q. Your opinion.

19 A. In my opinion, he wasn't
20 terminated. He quit.

21 Q. Okay. Do you think Mr. Lee
22 should have been terminated, in your
23 opinion, regardless of whether he quit or

1 Mr. Lee's former direct supervisor, right?

2 A. Uh-huh.

3 Q. When you went to go fill out
4 this 2005 yearly review, did you call Bob
5 up? He was no longer with the company,
6 right?

7 A. Uh-huh.

8 Q. Did you call him up and ask him
9 to get his input on this?

10 A. No.

11 MR. TIDWELL: Let me take a quick
12 break and then we'll come
13 back.

14 (Brief recess)

15 Q. Mr. Lee, I don't think I have
16 too much more for you. I know you'll be
17 excited about that.

18 A. Major.

19 Q. I'm sorry. Mr. Major. Do you
20 know who terminated Mr. Lee?

21 A. HR manager.

22 Q. Who is that?

23 A. Okay. Terminated. What do you

1 was terminated? Do you think he should
2 have been terminated?

3 A. No.

4 Q. You don't think he should have
5 been? Do you think he should have been
6 removed from management position?

7 A. My opinion, yes.

8 Q. Okay. Let me go back to
9 something. You said that Mr. Lee was not
10 terminated. He quit?

11 A. Yes.

12 Q. What are you basing that on?

13 A. On the fact that after he was
14 removed from third shift supervisor, he was
15 I think offered an hourly job. I think it
16 was a lift truck operator job on first
17 shift.

18 Q. How do you know he was offered
19 a lift truck job?

20 A. Because the morning he came in
21 to start the lift truck job, I was there.

22 Q. Did you talk to him?

23 A. Yes.

1 Q. What did he say?
2 A. I mean more than basically just
3 good morning, how are you doing. But as
4 far as --
5 Q. So you found out through
6 somebody else, I guess, that he was
7 terminated from his -- or removed from his
8 third shift supervisor and was going to be
9 a lift truck operator?
10 A. Yeah.
11 Q. Who did you find out from?
12 A. It may have been the department
13 manager at the time or even HR manager.
14 I'm not a hundred percent sure who.
15 Q. So Mike Alford was department
16 manager, right?
17 A. Yes.
18 Q. Okay. Who was the HR manager
19 then?
20 A. Brent Murphy.
21 Q. Now, did Brent Murphy observe
22 Mr. Lee, to your knowledge?
23 A. From time to time, yes.

1 That's it?
2 A. Yes.
3 Q. And Mr. Murphy, did he observe
4 Mr. Etheridge and Mr. Bedsole?
5 A. Yes.
6 Q. How many times; do you know?
7 A. At least one that I know.
8 Q. And, again, you never
9 recommended to Mr. Murphy or to anyone else
10 that Mr. Lee should be terminated, did you?
11 A. No.
12 Q. Did you ever recommend that he
13 should be removed from management?
14 A. No.
15 Q. Do you know if anybody ever
16 recommended that he be removed from
17 management?
18 A. I don't know.
19 Q. Did Mike Alford ever recommend
20 that he be removed from management?
21 A. I don't know.
22 Q. So you don't know the
23 circumstances that arose to cause Mr. Lee

1 Q. All right. Was that part of
2 Mr. Murphy's job to observe the shift -- I
3 mean to observe the shift leaders or
4 supervisors?
5 A. In the entire facility, yes.
6 Q. Did you ever observe him
7 observing Mr. Lee?
8 A. I can't recall any time
9 specific.
10 Q. I'm just asking if you observed
11 Mr. Murphy observing Mr. Lee.
12 A. I'm sure, yes.
13 Q. You did?
14 A. Uh-huh.
15 Q. How many times?
16 A. Oh, I have no idea.
17 Q. One? Ten? Twenty?
18 A. At least one.
19 Q. More than ten?
20 A. Not sure.
21 Q. More than twenty?
22 A. Not sure.
23 Q. So we know at least one.

1 to be removed from management?
2 A. Maybe some.
3 Q. Tell me what you know.
4 A. To my knowledge, it was
5 basically the job performance, I think.
6 Q. But who decided that Mr. Lee
7 should be removed from management?
8 A. It would have had to have been
9 his department manager at the time.
10 Q. Which would have been?
11 A. Michael Alford.
12 Q. So according to you, Michael
13 Alford was the one that decided to remove
14 Mr. Lee from management?
15 A. I don't know if I can say that
16 a hundred percent, but yes. Because he --
17 Claude was Michael's subordinate.
18 Q. Who was the -- was there an
19 assistant department manager at that time?
20 A. No.
21 Q. So really the only direct
22 supervisor over Mr. Lee was Mr. Alford?
23 A. Yes.

Q. And at the time Mr. Lee was removed from third shift manager, do you know about how long Mr. Alford had been working there?

A. Off the top of my head, no.

Q. If I told you it had been about one month, would you have any -- would you have any reason to disbelieve that?

A. I guess I would -- I would -- I guess I'm not sure when he started, and I'm not a hundred percent sure of the day Claude was removed.

Q. Well, didn't he start when you were transferred over to HR?

A. No.

Q. Oh, he didn't. So February 20th --

A. He started before then probably.

Q. So you and --

A. I was actually working with Mr. Alford when he started.

Q. Okay.

A. Before I went into HR.

Q. So you went into HR about February of '06 or before that?

A. No. It had to have been -- it would have had to have been after that because, like I said, I worked with Mr. Alford. When he came in, I don't know if -- I don't know if I was responsible for training him, so to speak, but I worked with him I know for a few weeks before I went.

Q. Well, your declaration said that you had no supervision of Mr. -- or direct supervision of Mr. Lee after February 20th of '06?

A. Okay. So Mr. Alford was in charge, then. If I wasn't supervising Claude, then Mr. Alford was there.

Q. Right.

A. Yes.

Q. Mr. Lee was terminated or -- sorry -- removed from his third shift management in March of '06, correct?

A. I would have to look at the exact date, but it sounds like it was around that time.

Q. I mean, you don't have anything that would suggest that it wasn't March. I mean, I've got it. I just don't have it in front of me.

A. Okay.

Q. Which would mean that if Mr. Lee was removed in March of '06, then that would mean that Mr. Alford had been on the job for approximately a month, maybe a little bit longer than a month?

A. Like I said, I'm not sure when Mr. Alford started.

Q. Well, you were there, weren't you?

A. Yeah. But I'm not sure when he started.

Q. Was he there when you did the yearly review?

A. No.

Q. Okay. So we know he wasn't

there January 25th --

A. Okay.

Q. -- of '06. So that would have meant he would have had to start after January 25th of '06, right?

A. Yes.

Q. And we all know that Mr. Lee was removed from management position in March of '06?

A. Okay.

Q. So, you know, let's say he started January 26th. At most, he was there for less than two months?

A. Okay.

Q. Is that right?

A. I guess based on that, yes.

Q. Okay. Did you ever talk to Mike Alford about Mr. Lee's job performance?

A. Yes.

Q. What did y'all talk about?

A. Specifically, I can't remember specifically what we talked about, but it

1 had to have been along the line of areas
2 that he needed to work on.

3 Q. Was it in the conversation that
4 you were talking about all of the shift
5 managers, or were you just particularly
6 talking about Mr. Lee?

7 A. I'm sure it -- like I said,
8 with Mr. Alford just starting, I had to
9 have talked to him about each supervisor
10 individually.

11 Q. But you don't remember exactly
12 what was said or the basis of the
13 conversation?

14 A. No, sir.

15 Q. And you don't remember when any
16 conversations occurred?

17 A. No, sir.

18 Q. Okay. What happened to Mike
19 Alford; do you know?

20 A. No.

21 Q. He's no longer with the
22 company, is he?

23 A. No.

1 A. No. I don't -- I don't know of
2 any or I can't remember any.

3 Q. Did you ever observe Mr. Alford
4 managing?

5 A. Yes.

6 Q. Did he appear to be doing a
7 good job to you?

8 A. I would have to say yes,
9 because I was responsible for training him.
10 So yes.

11 Q. And you don't know what
12 Mr. Alford is doing today, do you?

13 A. No.

14 Q. When was the last time you've
15 spoken with him?

16 A. It would have had to have been
17 right before he left from the plant. But,
18 like I say, I can't remember when that was,
19 when he left.

20 Q. What's your current job title?

21 A. Safety and training director.

22 Q. At the Abbeville plant?

23 A. Yes.

1 Q. Do you know when -- was he
2 fired from the company or terminated?

3 A. I'm not sure if he was
4 terminated or voluntarily quit. I'm not
5 sure.

6 Q. Do you know about when he was
7 fired or voluntarily left?

8 A. No.

9 Q. You don't have any idea?

10 A. No.

11 Q. Was it June, July, summer of
12 '06? Was it spring of '06? Was it fall?

13 A. I'm not sure.

14 Q. Do you know of any problems
15 management or anybody was having with
16 Mr. Alford?

17 A. Problems?

18 Q. In his work.

19 A. As far as management was having
20 with Mr. Alford?

21 Q. Uh-huh.

22 A. Specifically, no.

23 Q. Generally?

1 Q. When are y'all planning on
2 shutting down that plant?

3 A. We've actually laid off second
4 and third shift. We started laying off the
5 9th of August. Second and third shift
6 actually was gone the 9th of August, I
7 think.

8 Q. All of second and third?

9 A. Yes.

10 Q. So there's no longer a second
11 and third shift?

12 A. No. And I believe the rest of
13 the plant should be October maybe. I think
14 the only thing that will be left will be
15 the distribution center.

16 Q. Did you offer any packages for
17 the management?

18 A. Did I?

19 Q. Did the company?

20 A. They have -- they received a
21 severance for -- a two week severance for
22 the time that they were with Westpoint
23 Home.

1 Q. What do you mean two weeks for
2 the time that they were with Westpoint?

3 A. They received a week's pay for
4 every year that they were with Westpoint
5 Home.

6 Q. Just management or everybody?

7 A. Everybody did.

8 Q. Did management get anything
9 else?

10 A. Not that I know of. No.

11 Q. So if somebody had been with
12 Westpoint for twenty years, they would have
13 gotten twenty weeks' pay?

14 A. No. If they'd been with
15 Westpoint Home for twenty years, yes.

16 Q. That's what I'm asking.

17 A. But --

18 Q. Not --

19 A. -- not Stevens.

20 Q. Okay. So they didn't take into
21 consideration the previous company that
22 they acquired when they did severance
23 packages?

1 A. Yes.

2 Q. They wouldn't have given him
3 any credit for the years he worked for the
4 previous company?

5 A. When Westpoint Home took over
6 Westpoint Stevens, as of I think August 5th
7 of '05, that was the hire date, so to
8 speak.

9 Q. For all employees?

10 A. Yes.

11 Q. And you said it was one week of
12 severance per one year?

13 A. Yes. Something like that.

14 Q. And that's all they got?

15 A. Yes, to my knowledge.

16 Q. Are they transferring people to
17 other plants and all that, too, or is
18 everybody just being let go?

19 A. There were some hourly jobs
20 like at the Chipley plant, but as far as
21 anyone else, no. When second and third
22 went, when everybody went, they --

23 Q. What about your job?

1 A. No.

2 Q. Okay. When did Westpoint Home
3 take over --

4 A. August.

5 Q. -- Westpoint Stevens?

6 A. August of '05.

7 Q. So the most anybody could have
8 gotten that was an employee of Westpoint
9 Stevens before then would have been I guess
10 two years -- I mean they would have been
11 given credit for being there for two years?

12 A. Under Westpoint Home?

13 Q. Uh-huh.

14 A. Yes, because they --

15 Q. So if Mr. Lee would have lasted
16 until August when his -- this past August
17 when his shift was terminated completely or
18 eliminated, then -- or the third shift was
19 eliminated completely, then the most
20 severance he would have gotten would have
21 been two weeks?

22 A. If he stayed until now?

23 Q. Yes. That's what I'm asking.

1 A. What about it?

2 Q. Well, what are you going to do?

3 A. I am searching just like
4 everybody else.

5 Q. So the company hasn't talked to
6 you about continuing to be an employee of
7 Westpoint Home?

8 A. No. Unh-unh. I have -- I
9 mean, my date I was -- everybody that's
10 left was given a letter, and the last
11 letter I received takes me I think through
12 the beginning of October.

13 Q. So as far as you know, after
14 that, you won't have a job with Westpoint?

15 A. Exactly, unless something
16 happens. I'm praying.

17 Q. What did you review? Did you
18 review anything to prepare for today's
19 deposition?

20 A. Other than my declaration.

21 Q. That's all you reviewed was
22 your declaration?

23 A. Yes. I can't remember the name

1 of the other paper.

2 MS. PATE: The brief.

3 A. The brief. Yeah.

4 Q. Motion for summary judgment
5 brief?

6 A. Uh-huh.

7 Q. Have you looked at Mr. Lee's
8 deposition testimony?

9 A. I'm not sure if I've seen his
10 deposition. I'm not sure.

11 Q. So you don't know if you read
12 it or not?

13 A. I'm not a hundred percent sure.

14 Q. Other than talking with your
15 attorney, did you talk with anybody else
16 about your deposition today?

17 A. Just my managers. They knew I
18 was coming down here. But specifically
19 about what to do, what to say, no.

20 Q. Well, let me review my notes
21 and I think that's about it. Let me look.

22 (Off-the-record discussion)

23 Q. Have you ever received a

1 A. For I want to say poor job
2 performance.

3 Q. Have you ever received or been
4 talked to about not disciplining
5 supervisors or employees?

6 A. No, not that I can remember.

7 Q. Do you remember being
8 disciplined, the reasons they stated poor
9 job performance?

10 A. On mine?

11 Q. Yes.

12 A. I think mine -- my poor job
13 performance was based on I guess my time
14 framing and getting things done, to my
15 knowledge, from what I can remember.

16 Q. All right. Do you remember
17 when the last time you received any type of
18 warning about your job performance?

19 A. Just that time we were just
20 talking about.

21 Q. No. I mean, when it was, like
22 the date, month or something like that.

23 A. No, sir.

1 personnel notice?

2 A. Me?

3 Q. Yes. You personally?

4 A. Yes.

5 Q. For what?

6 A. I guess keeping my hourly and
7 salary myself.

8 Q. I guess let's just limit it to
9 when you've been a salaried managerial type
10 position.

11 A. Here?

12 Q. Uh-huh.

13 A. I can't -- have I received any
14 since I was here? I haven't received a
15 personnel notice since I was here, no. I
16 don't think so.

17 Q. Have you received any kind of
18 warnings or written notices?

19 A. Since I've been --

20 Q. Since you've been in the
21 Abbeville plant?

22 A. Yes.

23 Q. For what?

1 Q. Was it this last year? Was it
2 in '07?

3 A. No.

4 Q. '06?

5 A. It was either the end of '05,
6 the beginning of '06. Somewhere around
7 that time.

8 Q. So you haven't received any
9 kind of warning or anything like that,
10 personnel notices in '07?

11 A. No.

12 Q. Has anybody talked to you in
13 '07 about your job performance?

14 A. No. Not poorly.

15 Q. I'm sorry.

16 A. Not poor job performance, no.

17 Q. Do you get a yearly review?

18 A. Yes.

19 Q. And who does your yearly
20 review?

21 A. It would be my boss, HR
22 manager.

23 Q. Who is that?

1 A. Brent Murphy.
2 Q. Okay. And for the '06 review,
3 what was your overall rating?
4 A. I don't remember.
5 Q. Are yours the same as Claude's,
6 the one you gave Claude? Is it the same
7 format?
8 A. Uh-huh. Yes.
9 Q. And you don't remember if it
10 was above requirements, meets requirements,
11 fair?
12 A. Actually, I don't believe it
13 was above requirements. I don't believe it
14 was above requirements.
15 Q. So it was either meets
16 requirements, fair or marginal?
17 A. I don't believe it was
18 marginal.
19 Q. Okay. So that gets us down to
20 meets requirements or fair?
21 A. One of the two, yes.
22 Q. Okay. Were you ever talked to
23 about Claude Lee, about disciplining Claude

1 MS. PATE: Sure. I don't know
2 which one you want. Those
3 were the two.
4 MR. TIDWELL: Is this Exhibit 13
5 to Mr. Lee's deposition?
6 MS. PATE: Uh-huh.
7 Q. All right. The corrective
8 action reports that we briefly talked about
9 before, did you ever give Mr. Lee a
10 corrective action report?
11 A. No.
12 Q. Let me show you what's been
13 previously marked as Exhibit 13 to Claude
14 Lee's deposition. And this is a corrective
15 action report given by Mike Alford to
16 Claude Lee. It's dated 3/8, March 8th of
17 '06.
18 A. Okay.
19 Q. Have you ever seen that?
20 A. This one or the form?
21 Q. No. That actual one.
22 A. No.
23 Q. Okay. Now let's go to the

1 Lee?
2 A. I'm not sure. I'm trying to
3 think. I'm not sure.
4 Q. You're not sure if anybody ever
5 said, Hey, you need to -- you need to
6 discipline Claude Lee. You need to write
7 Claude Lee up. Anything like that?
8 A. No.
9 Q. You're not sure, or no, nobody
10 ever said that?
11 A. I'm not sure.
12 MR. TIDWELL: Kelly, do you have
13 that corrective action form from
14 Mike Alford handy?
15 MS. PATE: Which one?
16 MR. TIDWELL: I guess the last
17 one before Mr. Lee's
18 termination. I've got it
19 somewhere, but you might be
20 able to save some time.
21 MS. PATE: Here you go.
22 MR. TIDWELL: Can I look at that
23 real quick?

1 form. Is that the normal form for a
2 corrective action report?
3 A. I believe so. Yes.
4 Q. Okay. This corrective action
5 report lists I guess reasons Mike Alford
6 thought that Mr. Lee was doing a poor job.
7 What I want to point out to you is where it
8 says right here if not fully in control of
9 his position as a supervisor in the
10 packaging department within two weeks, and
11 then it goes on to state including improper
12 communications with management, Claude
13 could be immediately removed from his
14 current position as a supervisor.
15 A. Okay.
16 Q. Now, would you take that to
17 mean that Claude is given two weeks to pull
18 his performance up to what Mike Alford
19 wants it to be?
20 MS. PATE: Object to the form.
21 A. Can I read it again?
22 Q. Sure. It's this right here,
23 starting right there. And you can read the

1 whole thing if you want.

2 A. Okay. Ask your question again.

3 Q. Would you take that to mean
4 that Claude had two weeks to improve up to
5 Mr. Alford's standards?

6 MS. PATE: Object to the form.

7 Go ahead.

8 A. Okay. From the way I
9 understand it, I guess it seems like to me
10 it's within two weeks.

11 Q. So he would have I guess up to
12 two weeks to improve. Is that what you're
13 saying?

14 A. That's what I'm getting from
15 it.

16 Q. Okay. Now, I've got another
17 corrective action report from Mr. Alford.
18 And this is dated 3/11/06. Have you ever
19 seen this one? Let me show it to you.
20 This is marked as Defendant's Exhibit 14 to
21 Claude Lee's deposition?

22 A. I don't think so.

23 Q. Okay. You've never seen that?

1 his race?

2 MS. PATE: Object to the form.

3 A. No.

4 MR. TIDWELL: That's it.

5 MS. PATE: Okay.

6 MR. TIDWELL: Wait. One more.

7 Sorry.

8 Q. (Mr. Tidwell continuing:) Do
9 you feel that his race had anything to do
10 with his termination?

11 MS. PATE: Object to the form.

12 A. No.

13 Q. Nothing at all?

14 A. No.

15 MR. TIDWELL: Okay. That's all I
16 have.

17 MS. PATE: I just have a couple.

18 EXAMINATION

19 BY MS. PATE:

20 Q. You talked earlier about *possibly*
21 Mr. Lee's shift *positively* having fewer
22 employees than the other shifts. Did you
23 believe that Mr. Lee had enough employees

1 A. I don't think so.

2 Q. This states that Claude is
3 immediately removed from his current
4 position as supervisor in the packaging
5 department, and it's signed by Mike Alford.
6 And I'm going to let you -- you probably
7 know better than I. That looks like Brent
8 Murphy?

9 A. That's Brent. Uh-huh.

10 Q. Brent Murphy. Do you know of
11 any reason why Claude was not given two
12 weeks, he was only given three days?

13 A. No.

14 Q. You don't have any knowledge
15 about that?

16 A. No.

17 MR. TIDWELL: That's all I have.

18 MS. PATE: I just have just a
19 couple.

20 MR. TIDWELL: I'm sorry. One
21 more thing.

22 Q. (Mr. Tidwell continuing:) Do
23 you feel Mr. Lee was terminated because of

1 to do his job?

2 A. Yes.

3 Q. When you did the yearly
4 performance evaluation for Mr. Lee in
5 January of 2005, did you also do
6 performance reviews for any of the other
7 shift supervisors?

8 A. Yes.

9 Q. Who did you do performance
10 reviews for?

11 A. Mike Etheridge and Billy Wayne
12 Bedsole.

13 Q. And those were the white
14 supervisors on the first and second shifts?

15 A. Yes.

16 Q. And did you also review the
17 performance reviews that you did for Mike
18 Etheridge and Billy Wayne Bedsole with
19 Mr. McCants like you did with Mr. Lee's?

20 A. Yes, ma'am.

21 Q. And what happened when you
22 reviewed those performance evaluations for
23 Mr. Etheridge and Mr. Bedsole with

1 Mr. McCants like you did with Mr. Lee?

2 A. Mr. McCants, he made the
3 recommendations on Mr. Bedsole and
4 Mr. Etheridge, performance review, also,
5 and based on his recommendations, some
6 changes were made to their performance
7 reviews, also.

8 Q. Do you remember if the changes
9 you made based on his recommendations were
10 changing ratings upwards or changing
11 ratings downwards?

12 A. I think they was more or less I
13 think downward. I'm going to say more or
14 less downward.

15 Q. Okay. You mentioned that the
16 February 2006 personnel notice that you
17 gave Mr. Lee, you also gave a similar
18 personnel notice to Mr. Etheridge and
19 Mr. Bedsole; is that right?

20 A. Yes.

21 Q. When you gave that personnel
22 notice in February to Mr. Lee, did you sit
23 down with him and talk with him

1 from his supervisory position; is that
2 right?

3 A. Yes, ma'am.

4 Q. Were you aware whether or not
5 he began training for that job?

6 A. Yes, ma'am. I was I guess
7 actually on first shift still working in
8 the packaging department. But that morning
9 when he came in, like I said, I saw him
10 come in, and I'm not sure if I shook his
11 hand and said good morning or whatever.
12 But we had an instructor that -- being that
13 he was coming in to drive a forklift, it
14 was standard procedure to get your
15 training, whether it was retraining or
16 training. And his instructor -- he got
17 with an instructor, and the instructor
18 started going over the forklift with him
19 and training him on the forklift.

20 Q. And how did you become aware of
21 that?

22 A. Of the training?

23 Q. Uh-huh.

1 specifically about the issues that you were
2 having?

3 A. Yes, ma'am.

4 Q. Do you remember what generally
5 you discussed with him?

6 A. Usually if I'm giving someone a
7 personnel notice, what I'll do is I'll
8 explain to them the reason they're getting
9 the notice and then I'll explain, go
10 through the notice with them. And if it
11 was something that they didn't agree with,
12 I mean, they don't have to sign it if they
13 don't want to. But I try to explain it
14 with them and let them know exactly what it
15 is before I ask them to sign. And it's
16 their option whether they want to sign or
17 not.

18 Q. And you did that with Mr. Lee?

19 A. Yes. I did that with all three
20 of them.

21 Q. I believe you mentioned knowing
22 that Mr. Lee was offered another job, a
23 forklift driver job after he was removed

1 A. Well, I guess what -- after --
2 I don't know exactly how long. Maybe an
3 hour or a couple of hours, then the
4 instructor comes to me. I guess it might
5 have been right at first break. But the
6 instructor comes to me and asked me have I
7 seen Claude. And I told him, No. Why?
8 And he said, Well, he came back and the
9 forklift was parked in the back but Claude
10 was nowhere around.

11 Q. Okay. This corrective action
12 report that Mr. Tidwell showed you that is
13 Defendant's Exhibit 13 to Mr. Lee's
14 deposition, down at the bottom it says
15 follow-up conference date, two weeks or
16 less?

17 A. Uh-huh.

18 Q. Do you know what that means,
19 what that's used for?

20 A. I believe that after issuing
21 this corrective action, you will be
22 reviewed again within that time period.

23 Q. Okay.

1 A. I believe.

2 MS. PATE: Okay. That's all I
3 have.

4 MR. TIDWELL: I have one more
5 question.

6 EXAMINATION

7 BY MR. TIDWELL:

8 Q. This goes back to your 2005
9 review of Mr. Lee. Do you recall ever
10 stating to Mr. Lee or making a comment that
11 you didn't know why they had asked you to
12 do the 2000 yearly review for Mr. Lee and I
13 guess the other supervisor? Do you ever
14 recall making any kind of statement to
15 Mr. Lee about that?

16 A. No, because at the time, I
17 wasn't the department manager.

18 Q. So you never made any statement
19 regarding to Mr. Lee regarding you didn't
20 know why the management had asked you to do
21 the entire 2005 year review for Mr. Lee?

22 A. No.

23 MR. TIDWELL: No more questions.

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1
2 CERTIFICATE

3
4 STATE OF ALABAMA
5 ELMORE COUNTY
6

7 I hereby certify that the above
8 and foregoing deposition was taken down by
9 me in stenotype and the questions and
10 answers thereto were transcribed by means
11 of computer-aided transcription, and that
12 the foregoing represents a true and correct
13 transcript of the testimony given by said
14 witness upon said hearing.

15 I further certify that I am
16 neither of counsel, nor of kin to the
17 parties to the action, nor am I in anywise
18 interested in the result of said cause.
19
20
21

22 VIRGINIA DENESE BARRETT

23 MY COMMISSION EXPIRES 5/23/11

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